

DEBRA J. HEFFERNAN
STATE REPRESENTATIVE
6th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

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House Natural Resources Committee Meeting Minutes

6.29.22

This committee meeting has been recorded and may be accessed via legis.delaware.gov

Chair Heffernan called the meeting to order at 12:05 P.M. Members present included Rep. Bentz, Bush, Carson, Collins, Gray, Vice-Chair Griffiths, Kowalko, Lambert, Postles, Shupe. For a list of guests present, please see attendance list below.

Rep. Griffith introduced **HB 305 w/ SA1 AN ACT TO AMEND TITLES 7 AND 29 OF THE DELAWARE CODE RELATING TO CLIMATE CHANGE.**

Chair Heffernan explained background on SB305 including the importance of banning PFAS, access to clean drinking water, and renewable energy. As the prime sponsor of the bill, Chair Heffernan agreed to hearing from stakeholders and to hear concerns from the public. She discussed that climate change is one of the biggest threats facing the nation including rising sea levels as Delaware has the lowest average sea level in the nation. She expressed the importance of this bill with increasing average temperatures, heavy rains leading to flooding, air pollution, animal migration, and failing farm crops. She provided that SB305 is a follow up to Delaware's Climate Action Plan and states that by 2050 would reduce total by 90% from the 2005 baseline.

Rep. Kowalko emphasized his support for SB305 and he explained his disheartenment from special interest groups and how these groups view their dollars as more important than the safety of Delawareans and the safety of people.

Rep. Collins spoke that the average price of an electric car is \$64,000 and offered input from the Delaware business owners on the bill.

Rep. Kowalko explained that this state has the opportunity to better the environment including through providing public transportation and that bill is also great for lowering healthcare costs.

Chair Heffernan opened the committee for public comment.

Karen Barker from Citizens Climate Lobby expressed the importance of setting goals and SB305 is a very important bill that includes reasonable and attainable goals that will keep society from the brink of natural disasters.

Peggy Shultz from the League of Women Voters of Delaware expressed support for SB305 and the importance of the bill for the health of Delaware.

Rick Moore, former mayoral candidate for Lewes, Delaware, supported SB305.

John Mateyko respectfully requested that the bill be tabled to allow for more discussion.

Joe Fitzgerald on behalf of New Castle County Chamber of Commerce, expressed that this legislation should include stakeholders but that they were not included in discussions on the legislation. He asked to table the bill.

Robert W. Wheeler discussed the lack of implementation details of SB305 and asked to table the bill.

Bob Bescell who is an attorney and co-chair of the State Environmental Engineering Association, expressed objections due to implementation issues and explained that the bill is too broad, and the scenarios are very loose.

John Mahteyko expressed strong support of SB305

Steve Baccino who has worked on utility and energy for over 30 years in Delaware requested the committee to table SB305.

Bob Mvche expressed concerns for the bill and opposed SB305.

Don Clifton, Executive Director of the Farm Bureau and expressed that he knows what climate change is like in his everyday life. He expressed that he is against SB305.

Josh Yams from the Chemical Industry Council of Delaware opposed SB305.

Judy Diego expressed that the bill should be tabled.

David Stevenson expressed information regarding greenhouse gasses and supported the committee tabling the bill.

Sherri Evans-Stanton is a resident of New Castle County and spoke about concerns regarding greenhouse emissions, electric cars, and health concerns of the air. She supported SB305.

Actias Walters is an environmental activist from Fridays for Future and spoke in support of SB305.

Frank Burns, a former senior scientist at DuPont, expressed support for SB305.

Donna Hitchner thanked Chair Heffernan and presented information regarding greenhouse gasses and supported SB305.

Clew Dinsmore from the Delaware Clean Coalition spoke in support of SB305.

Elizabeth Kelch from Sierra Club expressed support for SB305 and the importance of protecting the state.

Reji Gregoire from Delaware Working Families expressed support for SB305.

Diego Gregoire from Working Families expressed support for SB305.

Bhavarto Galrachi-Moatuph expressed support for SB305

Michal Smith expressed support for SB305

Su Gaumer expressed support SB305.

Holly Porter from the Delmarva Chicken Association asked for the bill to be tabled.

Chris Bason, a scientist, supported SB305.

Beth Chajes expressed support for SB305.

Cotalie Petgy is a retired scientist who supported SB305.

Dr. Phil Smith supported SB305.

Heather Contant on behalf of Delaware Municipal Electric Cooperation and opposed SB305.

Tyler Micik from Delaware Chamber of Commerce and opposed SB305.

Jennifer Kmiec who is the Executive Director of the Committee of 100 opposed SB305.

Mike O'Hollohan opposed SB305.

Charles Garlow from the Delaware Electric Vehicle Association is in support of SB305.

Shweta Arya expressed support for SB305.

Emily Kusel from the Nature Conservancy supported SB305.

Francois Reverogi expressed support for SB305.

Rev. Lyle Dykstra expressed support for SB305.

Jeffrey Terrell expressed support for SB305.

Jack Thompson expressed support for SB305.

Alan Hitchner expressed support for SB305.

Aimee Isaac expressed support for SB305.

John Irwin expressed support for SB305.

Margaret McLaughlin expressed support for SB305.

Dr. Patt Panser expressed support for SB305.

Gordon Simmons expressed support for SB305.

Jamie Nutter on behalf of the Delaware Electric Cooperative expressed concerns for SB305 and requested to table SB305.

Anne Kirby expressed support for SB305.

Kanmani Duraikrannan voiced her support for SB305.

Chair Heffernan asked the committee for support on SB305 which is a continuation of Delaware's commitment to environmental care and responsibility.

Rep. Shupe commented on the lack of connection between the business community and environmental community and this division must stop. He expressed as an advocate for clean water and green energy that he had reservations about this bill.

Rep. Carson expressed concerns that this is a massive change.

Rep. Lambert thanked Rep. Heffernan for their work on this important bill.

Rep. Carson offered comments on his work in the Joint Finance Committee for clean water

A motion was made by Rep. Kowalko and seconded by Rep. Bentz to release SB305 from committee; motion failed. Roll call vote of Yes = 5 (Rep. Bentz, Vice-Chair Griffith, Chair Heffernan, Kowalko, Lambert); No = 6 (Rep. Bush, Carson, Collins, Gray, Postles, Shupe).

Respectfully Submitted,

Areeba Khan

Legislative Fellow

Speakers List:

Karen Barker

Peggy Shultz

Ric Moore

John Mateyko

Joe Fitzgerald

Robert W. Wheeler

Steve Baccino

Don Clifton

Bob Mvche

Josh Yams

Judy Diego

David Stevenson

Sherrie Evans Stanton

Actia Walters

Frank Burns

Donna Hitchner

Clew Dinsmore

Gail Hecky

Elizabeth Kelch

Reji Gregoire

Bhavarto Galrachi-Moatuph

Michael Smith

Su Gaumer

Holly Porter

Chris Bason

Beth Chajes

Coataly Petgy

Phil Smith

Heather Contant

Tyler Micik

Jennifer Kmiec

Mike O'Halloran

Charles Garlow

Swetha Arya

Emily Kelsry

Francois Revorgi

Rev. Lyle Dykstra

Jeffery Terrell

Jack Thomspen

Alan Hitchner

Aimee Isaac

John Irwin

Daitya Thomsson

Margaret McLaughlin

Dr. Patt Panser

Gordon Simmons

Jaimie Nutler

Anne Kirby

Kanmani Durakrannan

SB305 - House Natural Resources Committee

Phil Smith <philip.james.smith@gmail.com>

Thu 6/30/2022 7:55 PM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Having attended the meeting in person yesterday and gave testimony in support of the bill. I wanted to ensure that you both got my testimony in writing as well as some additional comments.

Listening to all the votes from the committee members, on the positive side they all recognized that climate change is real and happening and important in Delaware. Unfortunately, the business interests asking for a delay are really counter productive. Delaware needs to act now to limit the effects of climate change.

All the business interests seemed to give Kudos to Senator Hansen's stakeholder meeting, and it wasn't clear why they opposed this bill since it was passed in the Senate.

Given where we are now, could you please get this bill back on the books as early as possible and keep the parties talking to make positive progress. Is it possible to set up a forum to keep discussion going over the Summer with all stakeholders.

I appreciate you trying to move this bill onward and would be happy to help in any way that I can to continue the progress.

Cheers

Phil Smith
99 Willow Grove Mill Dr,
Middletown, DE, 19709
302-690-5569

The testimony I gave live in 29th June 2022 to the committee meeting.

I'm Dr Phil Smith, I recently retired after 30 years as a Technical Leader in the chemical industry. Thank you for the opportunity to address this committee.

I live in Middletown, so my electricity is supplied by DEMEC.

I've monitored the progress of SB305 and other climate and energy bills in Delaware, I'm disappointed to find that DEMEC is one of the most outspoken opponents of almost any bill that would speed our transition to a clean energy economy. DEMEC does not represent me or indeed the best interests of its customers when it seeks to delay and oppose renewable energy and greenhouse gas emission reduction legislation. Also while they delay they continue to make long term investments in fossil fuel infrastructure, which will put pressure on them to use it for many years to come. \$100M in natural gas infrastructure in recent years..

Moving to renewable energy, in addition to being positive for the environment, would also be positive for creating high paying, skilled jobs in Delaware. Installers and service technicians for solar and wind are

forecast to grow 11 to 13 times faster than the U.S. average. Also, the vast majority of energy sector jobs, such as electricians, power plant operators, riggers, etc., are needed for both fossil and non-fossil energy.

From the United States Energy Employment Report by State for 2021, Delaware has around 5,040 Energy workers statewide in Electric Power Generation, Transmission, Distribution, and Storage. In Addition Delaware already has 10,660 jobs in Energy Efficiency - HVAC, High Efficiency Renewable heating and cooling, advanced insulation.

SB305 doesn't force businesses or industries to do anything, but it does provide a roadmap for everyone to follow.

Businesses dislike uncertainty, so they will make their investments in facilities located in a supportive environment to develop their technologies and increase their operations.

By approving SB305 you will be creating that supportive environment for investment, and will see job opportunities grow in Delaware.

Phil Smith

SB 305 Comment from constituent who called in.

HoneyBee Kitchen And Market <honeybeekandm@gmail.com>

Wed 6/29/2022 2:13 PM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Thank you to our electeds for your service to our state and to all of you able to face that we are in a climate emergency, an existential crisis. Our own president has said this is not hyperbole, and that we are in a code red situation.

Of course, business as usual and their lobbyists will oppose this bill. As Upton Sinclair wrote, It is difficult to get a man to understand something when his salary depends upon his not understanding it. Industrial agriculture is greatly dependent on fossil fuels so it is no wonder that the de farm buereau opposes this bill . But we have seen that we can pivot on a dime as Covid exhibited. And I know, as a farmer and the owner of a farm to table grocery store in Wilmington for the last 12 years, that regenerative agriculture is a viable way forward that will feed our citizens while nourishing our environment. And that human spirit and ingenuity will find ways forward with your support. Have faith in your business leaders and corporate investors. They, we, will rise to the occasion that this bill provides.

As published in 2020 in Yale Universities Climate Connection “A growing body of economics research documents the tremendous cost savings associated with implementing climate solutions. But it’s critical to recognize that many climate impacts simply cannot be quantified in economic terms: It’s impossible, for instance, to place a dollar value on human suffering as a result of homes lost to floods or fires, or climate-caused famine, or the value lost in species extinctions and declining biodiversity. Yet these must also be taken into account when evaluating the relative costs of climate action and inaction.”

SB 305 is well researched, thought through, fair and achievable. The bill has mobilized DE citizens and electeds who will work together to see it implemented effectively and fairly. We are in desperate times which call for courage and visionary action. As has been said, 70% of Delawareans think we should take immediate action on our climate crisis. You represent us. We have entrusted our safety to you, please don't betray our trust. Please vote yes on SB 305.

sincerely and with great concern,
Karen Igou
New Castle, DE



Delaware State Farm Bureau
3457 S. DuPont Highway
Camden, DE 19934

Office: (302) 697-3183 /Fax: (302) 697-1428
defb.org

Written Comment for June 29, 2022, House Natural Resources Committee Hearing regarding SB 305

Submitted by Wm. Donald Clifton, Executive Director, Delaware Farm Bureau

Delaware Farm Bureau (DEFB) opposes moving forward with SB305, with amendments, as currently conceived and written. Delaware farmers have for decades engaged in some of the best environmental practices available to reduce greenhouse gas emissions, like no-till crop production. Recently there is a resurgence in the practice of growing cover crops, which enhance the soil and capture carbon. Yet SB305 is disappointing in its insufficient consideration of agriculture.

One specific flaw in the bill is the establishment of a “Technical Committee on Climate Scenarios” [10005 (a)]. DEFB believes any such committee that may be established should have representation appointed not by the DNREC Secretary alone, but with input by and authority of legislative leadership, DDA, Agriculture and other industry leaders, and perhaps others.

The bill speaks of “All of Government Implementation”. However, for there to be any chance of success, “All of Government” will not be sufficient. Business, industry, agriculture, and the public at large must be mobilized. This bill appears to be the result of a flawed process.

DEFB urges that SB305 not be advanced.

Thank you for your consideration.

Wm. Donald Clifton
Executive Director

SB305

Aimee Isaac <alb416@gmail.com>

Wed 6/29/2022 10:32 AM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Good Morning,

I am writing to express my support for SB 305 and request that the committee members vote to release the bill today. I live in Sussex County where our environmental protections are few while our threats are many. Climate change threatens the health of our waterways and our communities in the form of intensifying storms, coastal erosion, accelerating sea level rise, and wetlands loss. Despite this, we ranked third in the nation for highest number of homes built in flood risk zones of any county in the US from 2010-2017.

Delaware should lower emissions, serve as a model for other states, and help bring the US and the world closer to the goals of the Paris Climate agreement.

Please vote YES for SB305

--

Aimee Isaac

Children's Book Author

THE PLANET WE CALL HOME (2023) Philomel

Visit me online at www.aimeeisaac.com

[@IsaacAimee](https://twitter.com/IsaacAimee) on Twitter

6/29/2022

SB305 Climate Change Solutions Act Testimony Provided at House Committee Hearing 062922

Chris Bason – Representing the Center for the Inland Bays

My name is Chris Bason representing the Center for the Inland Bays. The Center is the National Estuary Program responsible for facilitating the implementation of the stakeholder developed Comprehensive Conservation and Management Plan for the Inland Bays. This legislation is consistent with the Management Plan, and is strongly supported by the Center.

Of all of the state's waters, the Inland Bays and the many communities that surround them, are perhaps the most vulnerable to the effects of climate change. These effects are exacerbating the serious levels of pollution to the Bays now. And they are expected to rapidly eclipse the effects of this pollution on the overall health of the Bays in the near future. This threatens to reverse the decades of sacrifice and success that we have made cleaning up the bays. Hitting the greenhouse gas reduction targets in this bill as soon as possible is the most important action that we can take to protect and restore the Inland Bays and the multi billion dollar economy that has been built around them. We urge the passage of this bill this session and thank the sponsors, DNREC, and the Governor for their support.

NCC Chamber of Commerce Testimony before the House Natural Resources Committee,
SB 305 w/ SA 1,J June 29, 2022

Joseph Fitzgerald <joseph.fitzgerald@fitzgeraldgovrel.com>

Wed 6/29/2022 9:54 AM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>;Heffernan, Debra (LegHall) <Debra.Heffernan@delaware.gov>

Cc: Griffith, Krista (LegHall) <Krista.Griffith@delaware.gov>;Carson, William (LegHall) <William.Carson@delaware.gov>;Lambert, Larry (LegHall) <Larry.Lambert@delaware.gov>;Bush, William (LegHall) <william.bush@delaware.gov>;Bentz, David (LegHall) <David.Bentz@delaware.gov>;Kowalko, John (LegHall) <John.Kowalko@delaware.gov>;Collins, Rich G (LegHall) <Rich.Collins@delaware.gov>;Gray, Ronald (LegHall) <Ronald.Gray@delaware.gov>;Postles, Charles (LegHall) <Charles.Postles@delaware.gov>;Shupe, Bryan (LegHall) <Bryan.Shupe@delaware.gov>



**Testimony before the House Natural Resources Committee on Senate Bill 305 as amended by
Senate Amendment 1
June 29, 2022**

Madam Chair and Members of the Committee:

My name is Joe Fitzgerald, I am here on behalf of the New Castle County Chamber of Commerce to state our concerns regarding **Senate Bill 305 as amended by Senate Amendment 1**, which is before you today. This legislation is flawed from both a process and substantive standpoint.

- 1. The bill was developed without input from or consultation with key constituencies.** In the development and introduction of legislation of this import, particularly when it is an administration initiative, business input and consultation are vitally important, as is that of other stakeholders. In light of the concerns that this bill has generated, the process that led to SB 305's introduction and passage sends the wrong message to companies who provide jobs, investment and a tax base in our state. It is our understanding that the initial version of the bill was drafted with substantial participation by environmental advocacy groups. **We believe that such groups should be included in the development of environmental legislation as they are legitimate stakeholders with important insight.** However, other important constituencies which should have been included are organized labor, diverse and inclusive representation from the general public, and pertinent members of the business community, including the agricultural sector.
- 2. Legislation of this magnitude should be introduced early enough in session to allow for proper deliberation.** The fast track June introduction of a bill on which there was no consultation with the business community, followed by a committee hearing and Senate consideration and passage (all in less than 4 and ½ business days) did not provide adequate time for review and analysis by the businesses which will be directly impacted by it. **(Introduced on Thursday, June**

2, in committee on Wednesday June 8, and before the Senate on Thursday, June 9).

- 3. The plain language of the bill conveys exceedingly broad authority, coupled with a mandate to apply it, to all agencies of state government, without any parameters guiding its use.** (Senate Amendment 1, which has been represented as a response to this concern, appears to have little or no substantive effect on the underlying bill.)
- 4. The legislation would create profound regulatory uncertainty.** The policy environment in a given jurisdiction is a key factor informing business decisions, informing where to locate, where (or whether) to expand, hiring, and other investment outcomes. As written, Senate Bill 305, even with Senate Amendment 1, would create profound regulatory uncertainty. The bill, and the process that led to its development and consideration, send a troubling message to the business community, one that has reached beyond our state.
- 5. The emissions reductions goals are not the basis for our opposition to the current bill.** The question is not whether climate change must be addressed, but rather it is how to design policy solutions that will address climate change in an environmentally, socially and economically sustainable way. In short, this bill needs substantial revision to meet this standard.

In closing, consistent with the governor's request that the bill be deferred until next year, and to allow for a deliberative and inclusive process for developing amendments or alternatives, **we urge the committee to table the bill in committee.**

Thank you for your consideration.

Submitted for the Record: Multi-Organizational Statement on SB 305 w/ SA 1, House Natural Resources Committee, June 29, 2022

Joseph Fitzgerald <joseph.fitzgerald@fitzgeraldgovrel.com>

Wed 6/29/2022 9:48 AM

To: Heffernan, Debra (LegHall) <Debra.Heffernan@delaware.gov>; HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Cc: Griffith, Krista (LegHall) <Krista.Griffith@delaware.gov>; Carson, William (LegHall) <William.Carson@delaware.gov>; Lambert, Larry (LegHall) <Larry.Lambert@delaware.gov>; Bush, William (LegHall) <william.bush@delaware.gov>; Bentz, David (LegHall) <David.Bentz@delaware.gov>; Kowalko, John (LegHall) <John.Kowalko@delaware.gov>; Collins, Rich G (LegHall) <Rich.Collins@delaware.gov>; Gray, Ronald (LegHall) <Ronald.Gray@delaware.gov>; Postles, Charles (LegHall) <Charles.Postles@delaware.gov>; Shupe, Bryan (LegHall) <Bryan.Shupe@delaware.gov>

Multi-Organizational Statement to the House Natural Resources Committee on Senate Bill 305 as amended by Senate Amendment 1

June 29, 2022

Dear Madam Chair and Members of the House Natural Resources Committee:

We, the undersigned organizations, are writing to express our profound concerns regarding **Senate Bill 305 as amended by Senate Amendment 1** and to formally request that the bill be tabled and deferred until the 152nd General Assembly to allow for a deliberative vetting of substantive concerns about the language in the legislation by all stakeholders. The signatories to this statement represent nearly every sector of our economy: small and mid-sized businesses, nonprofits, utilities, nonprofits, retailers, restaurants, small boutique businesses, manufacturers of every size, large industrial businesses, the agricultural community, and others.

The question is not whether climate change must be addressed, but rather it is how to design policy solutions that will address climate change in an environmentally, socially, and economically sustainable way. In short, this bill needs substantial revision to meet this standard.

Broadly, our concerns fall into two categories: process and substance.

Process

The bill was drafted without any input from or consultation with the business community, the agricultural community, organized labor, and other key constituencies. We consider environmental policy advocates a key constituency and would not expect or encourage the development of such legislation without their input.

Following introduction, on June 2, there was committee consideration on June 8 and Senate passage on June 9. For a bill with the far-reaching effects and implications of **Senate Bill 305**, this is troubling and sends the wrong message to the business community in our state.

Substance

On Monday, June 13, there was a virtual meeting that included more than 25 representatives of some of Delaware's largest business trade associations and companies. On the call were people with years of knowledge and expertise in law, engineering, environmental issues, and the public policy process. **There was no disagreement among**

those in attendance, nor among the organizations they represent, as to how they read the language in the legislation and interpret its implications.

This legislation would convey broad new regulatory authority to agencies with no meaningful parameters guiding its use. (Senate Amendment 1, which has been represented as a response to this concern, is not sufficient.) The interpretation of the bill offered by the Secretary of the Department of Natural Resources (which we take as his good faith understanding of it), included an assertion that the bill does not confer new regulatory authority. That assessment differs fundamentally from that of many stakeholders with legal and other pertinent expertise.

The broad language in the legislation would delegate unfettered authority to the executive branch agencies. Precise statutory language is vitally important when applied by a court or in a regulatory decision/appeal. Given that the requirements of this legislation would extend to the regulatory process for all agencies of state government, it is a near certainty that judges, arbitrators, and regulators will be interpreting this law to render decisions with implications that extend to every sector of our economy.

The current bill would also create profound regulatory uncertainty. The policy environment in a given jurisdiction is a key factor informing business decisions, informing where to locate, where (or whether) to expand, hiring, and other investment outcomes. As written, Senate Bill 305, even with Senate Amendment 1, would create profound regulatory uncertainty. The bill, and the process that led to its development and consideration, send a troubling message to the business community, one that has reached beyond our state.

In closing, we urge that this legislation be tabled and deferred to next year to allow for dialogue and revision with all pertinent stakeholders. Thank you for your consideration.

Sincerely,

New Castle County Chamber of Commerce
Delaware State Chamber of Commerce
Central Delaware Chamber of Commerce
Rehoboth Beach-Dewey Beach Chamber of Commerce
The Committee of 100
Delaware Farm Bureau
Delaware Healthcare Association
Delaware Restaurant Association
Delaware Food Industry Council
Delmarva Chicken Association
Delaware Homebuilders Association
Delaware Hotel Lodging Association
American Council of Engineering Companies
Chesapeake Utilities Corporation
Chemical Industry Council of Delaware
PBF-Delaware City Refinery
Delaware Municipal Electric Corporation

re: SB305 AN ACT TO AMEND TITLES 7 AND 29 OF THE DELAWARE CODE RELATING TO CLIMATE CHANGE.

Roger Reinicker <adk46r2302@aol.com>

Tue 6/28/2022 10:29 PM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Please direct this testimony to the Delaware House Committee on Natural Resources.

My name is Roger Reinicker. I have lived in Hockessin since 1989. I am a member of Westminster Presbyterian Church (WPC) in Wilmington, where I am a ruling elder and member of the church's Earth Care Task Force.

I strongly support the passage of SB305, AN ACT TO AMEND TITLES 7 AND 29 OF THE DELAWARE CODE RELATING TO CLIMATE CHANGE.

Climate change is proving to be as devastating as the scientists have been warning us for decades. It is past time to act in the most meaningful ways possible to reduce our consumption of fossil fuels and the generation of greenhouse gases that result. The IPCC says we are in a CODE RED for humanity. We know we must limit global warming to 1.5 degrees Celsius to avoid catastrophic climate change. People are already dying from climate impacts; the economic costs are rising frighteningly fast and may overwhelm us. The pace of plant and animal extinctions is accelerating. Young people are depressed about the future. I worry about what my grandchildren will experience in their lifetimes. There is no question that the wealthiest countries are creating the most harm. The average North American causes 17 times as much greenhouse gas emissions as the average African. The climate crisis is already impacting all of us, but the impact on poorer nations and people is much worse.

Climate change is a poverty, hunger, ethical, fairness and moral issue; sadly it is also a political issue as entrenched special interests, profiting from the status quo, want to delay action or respond in only the most moderate of ways. This is NOT A TIME for TEPID response.

Our task force at WPC sponsored the reading and discussion of the book "Moral Ground: Ethical Action for a Planet in Peril." First published in 2010, Moral Ground is a collection of testimonial essays from over 80 visionaries around the globe — theologians and religious leaders, naturalists, scientists, elected officials, business leaders, activists, and writers. Together they “present a compelling call to honor our individual and collective moral responsibility to the planet.”

Our church has responded to this crisis by installing solar panels on roofs, buying renewable electricity, insulating buildings, replacing leaky windows, and switching hundreds of fluorescent and incandescent lights to LED's. Later this year we will install an electric vehicle charging station. Next year we plan on another solar array. We have supported an overture to divest from the fossil fuel industry, that is this week before the General Assembly of the Presbyterian Church (USA).

I stress that climate change is a moral and ethical issue. I stress that the time to act decisively is now. Please pass SB305.

Roger Reinicker
Hockessin

My apologies if this testimony has been received more than once.

DELAWARE HOUSE OF REPRESENTATIVES

151st GENERAL ASSEMBLY

Committee on Natural Resources

REGARDING

**Senate Bill No. 305
as amended by Senate Amendment 1**

Statement of Robert W. Whetzel

June 29, 2022

My name is Robert Whetzel, and I am an attorney with Richards, Layton & Finger, where I lead the environmental and energy law practice group. I have practiced law in Delaware since 1984. I have served on numerous legislative and regulatory advisory committees over the years, including the Coastal Zone Act Conversion Permit Act Regulations Committee, the HSCA Advisory Committee, the Title V Fees Advisory Committee, and others. I am the Co-Chair of the Environmental Committee of the Delaware State Chamber of Commerce, and I have previously served as the Chair of the Delaware State Bar Association Environmental Committee.

I appreciate the opportunity to address the Committee on SB 305. There are a number of concerns with this bill, many of which have been addressed by other commenters. In the interests of brevity, I will focus on a few specific issues, namely: (i) the broad scope and lack of specific legislative directives of the bill; (ii) the lack of specificity as to the climate projections that agencies are to consider, and (iii) the potential for unintended consequences if the bill is enacted into law.

First, as to the scope of the bill. At the outset, there is no dispute that laws protecting environmental health and safety are of the utmost importance. The General Assembly has already taken significant steps to recognize and address climate change, many of which are listed in the recitals to SB 305. And, to the extent that SB 305 would facilitate better planning and reporting of agency action on climate, all the better. But SB 305 goes much further, and that's the problem. Instead of directing agencies to implement specific programs or processes, SB 305 simply points the agencies to a range of plans and scenarios and directs them to adopt these plans and scenarios into their regulations in unspecified and unpredictable ways. That unfettered delegation of legislative power to executive branch agencies is unwise and unsupportable.

For the most part, prior Delaware legislation on climate issues has been well considered and targeted to specific sources of greenhouse gas emissions - for example, the renewable portfolio standards legislation. That legislation identified a specific source of GHG and directed specific actions to address it. The legislation provided the framework for implementation by an agency, and struck the appropriate balance between legislative and agency action.

SB 305, by contrast, is largely unfocused, and directs all agencies of the state to take unspecified actions “to incorporate the State’s greenhouse gas targets into the promulgation and amendment of regulations.” (Section 10006(a)). SB 302 also authorizes all state agencies to incorporate the Climate Action Plan, and a variety of “scenarios” into the promulgation and amendment of regulations. (Section 10006(a)).

The scope of action contemplated by Section 10006 is unknown and unknowable, especially as applied to all state agencies. Even for DNREC, which has expertise in this area, it’s not clear what this provision of the bill is directing DNREC to do. There are no emissions sources identified and no specific actions to be taken. As to other agencies, the bill give does not provide any direction for the agency action in any identifiable regulatory areas.

The Delaware Constitution provides that “the legislative power of this State shall be vested in a General Assembly.” SB 305, and its vague and broad delegation of authority to executive branch regulatory agencies, is improperly asking the agencies to exercise legislative power. Major policy decisions of widespread impact are the purview of the legislature and are not to be delegated to administrative agencies – at least not without clear and precise standards to direct the agencies.

Turning to the second issue, SB 305 directs state agencies to incorporate various plans and scenarios into regulations adopted by those agencies. The bill identifies the 2021 Climate Action Plan which is very broad, but at least it is identified. But the bill then lists “sea level rise scenarios, temperature scenarios, and precipitation scenarios” as items to be incorporated into future regulations. What are these scenarios, who prepared them, and where are they? DNREC has a wide variety of different assumptions and scenarios that it considers, and there does not appear to be any formal or definitive adoption of these scenarios. SB 305 certainly doesn’t identify them. How is a regulatory agency, much less the public or the regulated community, to know which scenarios are to be used in some future regulatory action?

Third and finally, SB 305 has the potential for unintended consequences. SB 305 applies to all state agencies. Beyond just DNREC, that includes agriculture, transportation, health, education, and many others. SB 305 provides no direction or guidance as to what the agencies should do with temperature, precipitation, and sea level rise projections. Does SB 305 contemplate a change in agricultural practices to reduce emissions from that sector? Does SB 305 contemplate a reduction in speed limits to cut emissions from motor vehicles? What else might be intended (or allowed) - more stringent emissions controls on vehicles? Adjustments to school hours or transportation to minimize GHG emissions? And the list goes on. SB 305 appears to provide unchecked authority to the agencies to do any or all these things, without any further direction or input from the legislature.

There is a related problem with Section 10018(b)(3) of the bill, which requires that any agency make a specific finding, for any regulation, that the regulation will not negatively impact the achievement of the State’s GHG emissions reduction targets. In

this context, a finding requires that a record be compiled with evidence supporting the finding. That requirement will add cost and delay to all regulatory activity in the State, and may provide a basis for challenging regulations that lack a sufficient basis for a “no negative impact” finding. For some regulations, it’s not clear that a “no negative impact” finding could ever be made – much of human activity creates some level of GHG, and regulation of that activity will impact GHG emissions.

In summary, there are several aspects of SB 305 that are commendable, and worthy of further consideration. In particular, the planning and stakeholder involvement provisions make sense. The requirement for an updated Climate Action Plan, addressing the factors identified in the bill, is also sensible. But SB 305 goes too far, and asks too much of the state agencies, before the policy making function has been completed. I urge the Committee to table this bill pending further action to develop a more specific and well considered approach to addressing this issue.

Thank you for your consideration of these comments.

Support for SB 305

Sarah Buttner <sarah.l.buttner@gmail.com>

Tue 6/28/2022 3:32 PM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Cc: Smith, Michael (LegHall) <Michael.F.Smith@delaware.gov>

Dear House Natural Resources Committee,

Good afternoon. My name is Sarah Buttner. I live in Newark, Delaware. I am a member of Westminster Presbyterian Church in Wilmington, a ruling elder, and convener of the church's Earth Care task Force.

I urge you to favorably vote SB 305, the Climate Change Solutions Act, out of committee, and to support its passage.

Acting to limit the damage of climate change is a huge moral and ethical imperative. We are already seeing climate crisis impacts even here in Delaware where citizens remain displaced from Hurricane Ida remnants. The costs of inaction far exceed costs of taking action. The harm to our children and grandchildren will be worse, but we are all being impacted already by heat, severe storms, fires, and agricultural losses.

Please vote SB 305 out of committee and support its passage.

With best regards,

Sarah Buttner
11 Firechase Circle
Newark, DE 19711



Inside Energy

Published by the Caesar Rodney Institute
Center for Energy & Environment

RE: Zero emissions impact from Delaware energy Policy

DATE : 6/28/2022

David T. Stevenson, Director

Governor Carney set a goal of reducing carbon dioxide (CO₂) emissions by 26% from 2005 levels by 2025. A 2019 federal emission inventory¹ shows emissions are down 23.6%, but all of that reduction is simply based on shifting emissions elsewhere, and lower natural gas price. Delaware legislated emission taxes, mandates and subsidies for wind and solar power, and energy efficiency together have had zero impact on global emissions. If we couldn't accomplish any emission reduction over the last 17 years why are we setting even higher emission reduction targets of 50% by 2030 and 90% by 2050 in Senate Bill 305?

Electric generation emissions dropped 4.5 million tons while all other sectors of the economy grew by a net 0.3 million tons for a net reduction of 4.2 million metric tons. A number of factors contributed to shifting those emissions out of Delaware:

- In state electric generation² fell 35% shifting 1.7 million metric tons to other states
- The Delaware City Refinery switched from petroleum coke³ to natural gas but sent the petroleum coke to China for use in electric generation shifting 0.8 million metric tons out of the country
- Energy intense manufacturing left the state⁴ shifting 0.7 million metric tons to other states and countries which also increased electric transmission line losses⁵ up 0.2 million metric tons
- Low priced natural gas shifted generation from higher emission coal⁶ saving 0.6 million metric tons
- Low capacity at remaining coal plants lowered efficiency⁵ adding 0.2 million metric tons

Unfortunately, Delaware's failed energy policy came at a cost. Delmarva Power electric bills⁷ have line items for a Green Energy Fund, wind & solar subsidies, Qualified Fuel Cells, and Energy Efficiency that total of \$10.15/month for an average customer using 975 KWh/month. In addition, there is a hidden carbon tax, but in Virginia⁸ the tax is shown on electric bills at \$6.67/month. The total residential cost of Delaware's energy policy is about \$200/year, and is rising.

SB305 sets emission reduction requirements that are unlikely to be met, but requires state action and appears to delegate authority to state agencies to implement actions with no input from the legislature once the bill is passed. Those actions could include ideas borrowed from California such as only allowing the sale of expensive electric vehicles, banning the use of natural gas and propane in buildings, and subsidizing offshore wind that could add \$400 to \$500 a year to electric bills. SB310 establishes an Energy Advisory Council which should be approved. The first priority for the Council should be to establish a realistic state energy plan to be approved by the legislature. SB305 needs to be denied until the energy plan is in place.

References:

- 1) EPA CO₂ by sector 1990 to 2018, https://www.epa.gov/sites/default/files/2020-10/documents/state_co2_emissions_from_fossil_fuel_combustion_1990-2018.pdf
- 2) US Energy Information Agency Detailed State Data, electric Generation 1990 to 2020, <https://www.eia.gov/electricity/data/state/>



Inside Energy

Published by the Caesar Rodney Institute
Center for Energy & Environment

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- 3) Cato Journal, “A Review of the Regional Greenhouse Gas Initiative”,
<https://object.cato.org/sites/cato.org/files/serials/files/cato-journal/2018/2/cato-journal-v38n1-chapter-11.pdf>
 - 4) US Energy Information Agency Detailed State Data, electric sales by sector 1990 to 2020,
<https://www.eia.gov/electricity/data/state/>
 - 5) Caesar Rodney Institute, <https://files.constantcontact.com/ffb41090101/0d843e55-58c8-4f27-bd93-9f2a42ac9409.pdf?rdr=true>
 - 6) Caesar Rodney Institute, “No Emission Reduction Gain from Increased Solar & Wind”,
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 - 7) Delmarva Power sample electric bill,
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 - 8) Caesar Rodney Institute, “Virginia your green new deal price tag is showing”
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Testimony for SB305 in Natural Resources Committee

johndsykes@gmail.com <johndsykes@gmail.com>

Tue 6/28/2022 9:41 AM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Personal testimony in support of SB305

Contrary to the unfounded opinion that Delaware cannot achieve the crucial climate action of emission reduction by 2030, please hear the truth from Lawrence Berkeley National Laboratory (Berkeley Lab). **There are multiple pathways to reduce greenhouse gas (GHG) emissions by at least 50% by 2030.**

“The case for clean energy is stronger than ever before and our study shows that **the 2030 emission target can be achieved.**” The study, [published in Science](#), consolidates findings from six recently published techno-economic models that simulate the U.S. energy system operations in comprehensive detail.

We can and must pass and implement SB305. Please release it from committee, pass it on the House floor and send it to our Governor for signature – THIS SESSION.

Respectfully submitted

John D Sykes

21626 West Conley Circle

Lewes, DE 19958

Public Comment on SB 305

davidstevenson1948@gmail.com <davidstevenson1948@gmail.com>

Thu 6/16/2022 9:05 AM

To: HouseCommitteeComment (Mailbox Resources) <HouseCommitteeComment@delaware.gov>

Please accept the following comment

Senate bill 305 sets aggressive goals to reduce carbon dioxide emissions in all segments of our economy, memorializes the Department of Natural Resources and Environmental Control (DNREC) authority to establish a Climate Action Plan (CAP), and requires all state agencies to participate in developing the plan. The bill passed the Senate and is on its way to the House of Representatives. An amendment establishes the bill does not grant any new authority to implement programs defined in the CAP, but also does not limit existing authority. A trigger is needed to determine when legislative action is required.

Governor Carney has announced he wants to follow regulatory actions established in California, and the CAP includes studies of using those strategies in Delaware. Those regulations in California have led to the eventual banning of gasoline powered vehicles in favor of electric vehicles that currently add about \$15,000 per vehicle. Natural gas and propane are banned in new or remodeled homes and commercial buildings. There is also a mandate for offshore wind subsidized by electric customers and our recent analysis shows doing that in Delaware could add \$400 to \$545 a year to residential electric bills. These regulations may not be adopted in Delaware, but are being studied. Issues of this magnitude should be decided by the General Assembly.

Bill supporters claim DNREC wouldn't go down this road without legislative approval, but history shows a different story. A few years ago DNREC banned a refrigerant that cost \$4/pound in favor of a \$60/pound refrigerant with lower greenhouse gas impact. The basis was a United Nations Treaty that never received the advice and consent of the US Senate as required by the Constitution, and an EPA regulation that was overturned in court. This change might add \$100 to a new car price, or vehicle repair, and several hundred dollars to a home air conditioning repair, and could cost Delawareans \$25 to \$45 million a year. The savings of the regulation would amount to 4 one-hundred thousandths of a degree lower global temperature, essentially zero. Public comments explain these facts but were ignored and DNREC never considered asking for legislative approval. DNREC will not willingly go back to the legislature for any action they want to take.

Meanwhile Senate Bill 310 establishing a more robust Energy Advisory Council is headed for easy passage. The EAC is modeled after an Energy Panel established by Senator Hansen with a wide range of stakeholders that has worked extremely well and has led to legislation that is being passed unanimously. SB 305 needs an amendment at line 106 of the bill that states, "Climate Action Plan Implementation Programs developed by DNREC must be reviewed by the Energy Advisory Council who will offer revisions, and will determine if supporting legislation is required".

David T. Stevenson
Caesar Rodney Institute
Director Center for Energy & Environment
Cell# 302-236-2050



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June 15, 2022

Representative Debra Heffernen
House Natural Resources Committee
151st GENERAL ASSEMBLY
Legislative Hall
411 Legislative Ave.
Dover, DE 19901

HouseCommitteeComment@delaware.gov

Re: DE SB305 w/SA 1

Dear Madam Chair:

The American Fuel & Petrochemical Manufacturers (AFPM) submits the following comments regarding DE SB305 w/SA 1 (SB305) entitled “An Act to Amend Titles 7 and 29 of the Delaware Code Relating to Climate Change.” AFPM recommends that the Committee reject efforts to rush this legislation through in the closing days of this legislative session and provide a more robust and transparent public process to address this important issue.

AFPM is a national trade association representing nearly all U.S. refining and petrochemical manufacturing capacity, including companies with facilities in Delaware. AFPM members support more than three million quality jobs, contribute to our economic and national security, and enable the production of thousands of vital products used by families and businesses throughout the U.S.

AFPM also supports good faith discussions about policies that balance the needs to reduce carbon emissions while ensuring growing global populations and economies have the affordable, sustainable fuels and petrochemical products they need to thrive in the years ahead. AFPM’s members are leaders in producing lower carbon fuels, such as renewable diesel and sustainable aviation fuel. In fact, AFPM members are responsible for 82 percent of recently announced investments in renewable diesel.

As a general matter, the key to meeting global demand for affordable energy and petrochemical products is to utilize the most efficient assets, to find low-cost methods to abate carbon emissions, and to utilize the expertise of the U.S. refining and petrochemical sectors in scaling energy technology.

The U.S. refining and petrochemical industries are well positioned to lead the world in these respects. First, the U.S. refining industry is the most complex in the world; it has the flexibility to

transform a wide range of crude oil qualities into a vast array of higher value products that help consumers save energy and lower emissions, while helping to make modern life possible.

Additionally, the U.S. refining and petrochemical industries have access to competitive energy and feedstocks; a mature logistics network; highly skilled workforce; and access to export markets. These advantages position U.S. industries well compared to our international competitors.

As they have grown global market share, the U.S. fuel and petrochemical industries have been working hard on innovations that reduce emissions. In fact, U.S. refineries and petrochemical manufacturers invested more than \$100 billion to improve refinery efficiency, reduce emissions, and produce cleaner fuels, while reducing the carbon intensity of its operations by 12% over the past decade.¹

In addition to the U.S. refining and petrochemical industries reducing their own emissions, they are critical components in making products and processes more efficient to help customers reduce their emissions. High-tech petrochemicals are key to light-weighting vehicles and are core components of electric vehicles, wind turbines, solar panels, and thousands of everyday products including vaccines, masks, and numerous medical devices. They also help achieve other U.S. and U.N. Sustainable Development goals, including supplying the base materials for delivering clean water worldwide.

Recent geopolitical events have laid bare the consequences of pursuing policies that do not recognize the importance of a strong U.S. refining industry. Since the beginning of 2020, more than 1 million barrels per day of domestic refining capacity have been shuttered in the U.S. in response to federal and state laws and regulations, taxes, economics, and anti-refining rhetoric.

Although the U.S. can still produce enough fuel to meet its own needs, the closure of U.S. refining capacity has left the U.S. with less spare capacity to meet global needs, contributing to the escalating prices currently facing consumers.

Because refineries are long-cycle investments and capital intensive to maintain, lawmakers should be careful about sending market signals that may well exacerbate the current situation. This should be a particular concern for Delaware, which is home to one of the four remaining refineries on the East Coast, which has lost more than 70 percent of its refining capacity since 2009, without equivalent losses in fuel demand.

As a result, the East Coast has become more reliant imports via the Colonial Pipeline from the U.S. Gulf Coast and foreign refiners. The region experienced the adverse impacts of unplanned, lost capacity in 2020 with the Colonial Pipeline cyber-hack. The fact that Delaware still has a refinery was a core reason the state's residents escaped the long gas station lines experienced just a few hours south in the Carolinas.

AFPM is concerned that the legislation under consideration fails to account for the multifaceted issues associated with reducing carbon emissions while protecting energy security.

¹ John Beath Environmental.

Understanding the details of GHG goals and policies are critical to successful implementation, and Delaware should ensure policy aspirations that becomes law properly balances other important considerations, including consumer choice and costs, product availability, competitiveness, energy security, and achievability.

Well-crafted climate policies should be transparent, flexible, and simple. They should harmonize with one another and with the broader market. The mandates within SB305 are arbitrarily determined. SB305 clearly addresses the opportunity for public input and making all findings available to the public.² The goal is to add clarity and purpose to these complex discussions.

This bill, however, creates mandates in the final days of a legislative session ignoring the spirit of the very bill being considered and does not provide ample time for the public and concerned businesses to address the fundamental aspect of the goals themselves. AFPM has concerns that by rushing to adopt SB305 the bill will miss the mark and potentially result in adverse, unintended consequences that will affect the state's residents, businesses, and even government.

Given the complexity of these issues, significant oversight from the legislative and executive branches is traditionally provided to offer structure and better address public concerns, offer organizational transparency, and ensure that all aspects of government and industry are in alignment with executing on these mandates. For example, New York's Climate Action Council is comprised of 22 members assembled from government, academia, and industry.

Additionally, SB305 provides that several groups must work together and that these mandates should be administered; however, the bill lacks a "Fiscal Note" to immediately provide funding for the organization. If these mandates were adopted, given the timeline suggested, a large, well-funded oversight organization will be needed to act quickly. Rushing to set aspirational goals without providing support or even a plan that would ensure success of those goals represents leadership for an uncertain future, rather than towards a better tomorrow.

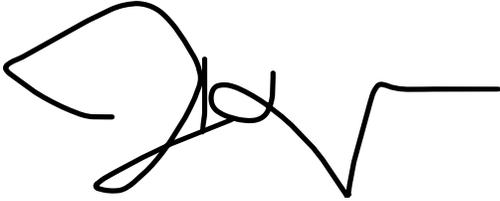
In conclusion, legislation of this magnitude deserves transparency and an opportunity for extensive public input, as it will involve significant and sizeable oversight and will necessitate the increase in size and budget of the agencies and organizations charged with achieving these mandates. We recommend that the legislature provide more time to address these concerns.

AFPM is committed to working constructively and in good faith to advance well-crafted policies to reduce carbon emissions, promote energy security, and protect consumers.

² See DE HB 305 (151st General Assembly), § 10004.

Thank you for the opportunity to share our perspective. Should you have any questions, please contact me at jdeflora@afpm.org or 202-844-5563.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J De Flora'. The signature is stylized with a large loop at the beginning and a horizontal line at the end.

Joseph De Flora
Director of State and Local Outreach