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**SB 528**

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February 14, 2022

**VIA EMAIL**

The Honorable Chairman Paul Pinsky  
Maryland Education, Health, and Environmental  
Affairs  
Miller Office Building  
Annapolis, Maryland 21401

Re: **SB528 - Climate Solutions Now Act**

Dear Senator Pinsky:

NAIOP requests an unfavorable report on Senate Bill 528.

NAIOP supports the adoption of reasonable strategies and responsible, technically sound regulations designed to reduce greenhouse gases on schedules and using methods that minimize economic disruption and result in an orderly energy transition for buildings and tenants. Unfortunately, Senate Bill 528 calls for measures that go too far, too fast and will cause significant harm to an important sector of our economy; a sector which is already under great stress.

**All-Electric Building Code**

SB 528 calls for building codes to ban new fossil fuel hookups for heating and hot water by January 1, 2024. This is simply too fast. Many projects that have been in development for lengthy periods as they navigated a way through zoning approvals or pandemic supply problems will be disrupted. If the Committee decides to adjust building codes, then the change should allow more time for the transition and a grandfathering provision for projects that are in the pipeline.

Large commercial buildings, in particular, face unique challenges. Many types of large structures may be unable to make the transition to all-electric heating without the development of new technologies and engineering improvements. The adoption of new building codes needs to allow time for those advancements to occur.

Any transition should also have a less strenuous test for waivers. The bill calls for a test that weighs the lifetime cost of fossil fuel plus a lifetime “social cost” of at least \$51 per ton of

carbon against the cost of constructing a building that solely uses electricity for heating and hot water. That “social cost” is variable and has already been changed multiple times by EPA. Very few, if any, buildings will pass this test, but buildings vary greatly in size and purpose.

The waiver provision fails to recognize differences in the technical feasibility of converting to all-electric regardless of the size and function of the building. It is much easier, for example, to heat a single-family home with a heat pump than to heat a large commercial warehouse with the same technology. The cost effectiveness waiver, or the underlying building code, should recognize the differences among building types. To put it simply, more flexibility is needed in drafting building codes to allow waivers.

Any ban on new hookups should include a later deadline, a grandfathering exception, and more flexibility in the provisions of building codes and waivers.

### Carbon Tax for Existing Buildings

The bill calls for a large carbon tax on existing buildings without providing any incentives or tax credits to help offset the enormous cost of compliance.

When the Maryland Commission on Climate Change developed their Building Transition Plan, the Commission stressed the need for new incentives such as grants or tax credits to help offset the cost of retrofitting existing buildings and reduce the payback periods. This is essential because a think tank hired by MDE estimated the cost of the HVAC equipment, building and grid upgrades needed to reach the net-zero goal of the bill’s “high electrification” scenario was between \$7,700,000,000 and \$14,000,000,000 per year (see chart at end). Seven to fourteen billion (with a B) dollars, without offsetting incentives and credits, would devastate the commercial and multi-family residential building sectors.

SB 528 recognizes that incentives are necessary by awarding twelve million dollars a year to public schools to support their efforts to improve emissions – even though the Bill imposes far fewer, and less expensive, requirements on public schools. No money is dedicated to any other covered buildings. Even buildings such as senior citizen retirement homes, hospitals and private schools would not receive any assistance. Instead, the Building Energy Transition Implementation Task Force is expected to make recommendations for incentives that may, or may not, be adopted in the future. The Bill does not even dedicate the fees collected to grants assisting building owners in meeting the requirements.

Instead of providing assistance, SB528, utilizes an entirely punitive approach where an escalating tax punishes any building which fails to reduce emissions in the next eight years and then increases the tax five years after that and a second increase five years after the first increase. The thin reed of a possible recommendation for incentives during some future session is inadequate. The building tax should not be adopted without a simultaneous adoption of a system of incentives – just as the bill proposes for public schools.

The tax requires every covered building to reduce emissions by 20% compared to 2025 regardless of where the building’s emissions started. This has the adverse impact of requiring

buildings that start with low emissions to make more expensive changes than buildings that start with high emissions. An all-electric building will have difficulty achieving a 20% or 40% reduction from existing levels where an older building with oil boilers, for example, may be able to spend less.

In addition to a lack of offsetting incentives, the Bill sets an implementation date earlier than recommended by the Maryland Commission on Climate Change. The Commission had recognized that as part of any move to all-electric buildings, the PSC would need to develop a Utility Transition Plan which would include electric system enhancements, additional demand management during winter peaks, and ratepayer protections. Most importantly, the Commission called for any Building Transition to include studies to identify “locations where the grid is not sufficient to serve new construction of multi-story, all-electric commercial buildings with electric vehicle charging and a method to determine the cost and timetable for necessary upgrades.” Obviously if parts of the grid cannot sustain new all-electric buildings, then it may not sustain the wholesale retrofitting of existing buildings. The bill should allow time for the PSC to complete those studies before forcing all new buildings to connect to the grid.

SB 528 adopts a tax system that charges ahead with building mandates without these additional provisions that would assist building owners with the cost of retrofitting and without the necessary studies to assure that the electric grid would support the transition

#### New Emission Targets

Any approach to climate change must begin with a focus on the science. That science has been well studied by of the United Nations Intergovernmental Panel on Climate Change (IPCC), the EPA and the Maryland Commission on Climate Change. Unfortunately, SB528 calls for reductions on a schedule that is much faster, and therefore more disruptive, than called for by those agencies. The IPCC recommended that countries achieve a 45% reduction by 2030. The Biden Administration has called for countries to reduce greenhouse gases by 50 to 52% by 2030. The Maryland Commission on Climate Change – a commission established by the General Assembly to provide advice on exactly this issue, studied the issue in detail and recommended that the Assembly adopt a target for 2030 of 50% compared to 2006 levels. The Commission also recommended that the target date for building “decarbonization” be 2045 in recognition of the cost and difficulty involved in retrofitting buildings.

Despite those recommendations of a reduction target of 50%, SB 528 calls for a 60% reduction. Instead of a 2045 target for buildings to reach net-zero, SB 528 establishes a 2040 deadline.

The changes in percentages and dates are not trivial. Any “low hanging fruit” for greenhouse gas reduction has already been exhausted. Each additional percentage of reduction or shortening of the time allowed to reach that reduction will come with escalating economic pain. Allowing the reductions to be phased in over a more reasonable period will reduce the disruptions and allow time for workers to retrain and businesses to retool. The goals cannot be achieved by

simply closing coal plants – all Maryland coal plants have announced dates by which they will stop burning coal – the reductions will need to be made where individual citizens live and work.

In addition, many of the greenhouse gas reductions that are called for by SB 528 will strain Maryland's electric grid. The common thread of most of the bill is to replace fossil fuels with electricity from 100% renewable sources. *If* that can be done (and there is reason for doubt) then it must be done carefully to balance the demands with available supply and capacity. Forcing *all* buildings to electrify *all* heating systems while simultaneously moving toward *all* electric vehicles will not merely increase overall demand but change the ways in which power flows across the grid and the times and days when peak demand occurs. For example, peak demand is likely to change from hot, sunny, summer days to cold, snowy, winter days. At the same time, fossil fuel plants, which can produce power regardless of weather or time of day, will be replaced by renewable plants that only produce power when the sun shines or the wind blows.

The Power Plant Research Program of DNR is currently conducting the study mandated by the General Assembly in the Clean Energy Jobs Act of 2019 on the feasibility, costs, and benefits of a 100% renewable power standard and to evaluate the transition needs for impacted industries and communities. SB 528 mandates the transition on a set schedule before the Program has completed the legislatively mandated study on feasibility and timing.

There are ample reasons to doubt whether this transition can be done on the schedule contemplated by SB 528. For example, PJM recently announced that it was planning to suspend processing of new solar plants because of staff shortages. Many committee members will also be aware of local opposition to new solar farms in rural parts of the state. We need to follow a reasonable schedule to assure that the grid can handle the transition.

The unfortunate truth is that Maryland, acting alone, cannot materially impact global greenhouse gas levels, the degree of sea level rise or the average temperatures of our summers and winters. The State can do its part in a global effort but trying to overachieve could cause irreparable harm without any measurable benefit.

The new emission targets should be consistent with the recommendations of the Maryland Commission on Climate Change, the Biden Administration targets and the conclusions of the IPCC.

#### Change in the Cost-Effectiveness Test

One important protection in Maryland's existing Greenhouse Gas Reduction Act is a requirement that Maryland proposals must pass a cost effectiveness test that assures a net economic benefit and no net reduction in Maryland jobs. Those provisions do not prevent all economic pain. For example, unionized workers at coal burning power plants are not likely to be reassured by the creation of low-wage jobs installing solar roof panels. But the provisions do assure that the economy as a whole is spared the worst disruptions. Maryland successfully achieved the Act's 2020 targets without material impacts to the state's overall economy because the cost effectiveness test was followed.

SB 528 alters this test to say that the cost of new proposals must be compared to “no-action.” If this means no action *by the State of Maryland*, then the language does not change the current practice. If this means to call for no action *by the World*, then it sets a standard which can never be met. If the test compares the cost of a measure to the damage that might result if China, India, and Russia (for example) take no action then the test could justify simply shutting down Maryland’s economy entirely. The language should either be eliminated or clarified.

#### Residential Rate Impacts

The “high electrification” scenario mandated by SB 528 will also have an impact on residential gas and electric bills. “High electrification” refers to a scenario where buildings are converted to all-electric rather than using backup gas or gas from renewable sources (or a hybrid system where some buildings are electric and some use backup gas).

Energy + Environmental Economics modeled the impact on natural gas and electric rates of the high electrification scenario. Their conclusions in chart form are attached but they concluded that natural gas would experience “a rapid rate increase” to many multiples of the current rate by the 2040s. Electric rates (chart attached) would also increase significantly because of the need to accommodate larger peak loads.

Because of these concerns, the schedule should not be rushed, and the Act should incorporate measures to mitigate the economic impacts.

For these reasons, NAIOP respectfully requests an unfavorable report.

Sincerely,

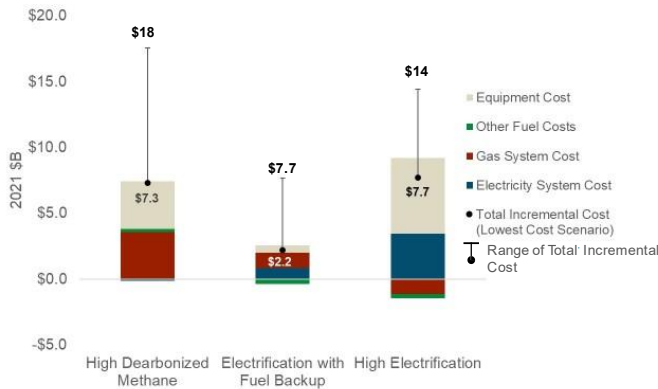
*Michael C. Powell*

Michael C. Powell

MCP/MCP

**Electrification with Fuel Backup scenario is expected to be the relatively low-cost and low-risk among the three scenarios**

**Incremental Total Resource Costs for Buildings (2045)**  
(\$2021 Billions per year)

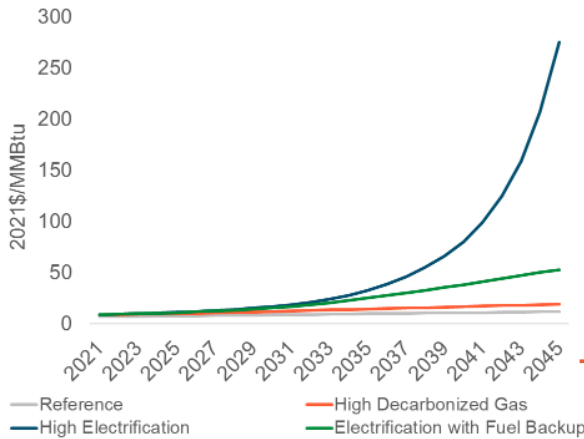


- + Building sector costs show large variation across scenarios depending on:
  - Gas fuel costs (optimistic/conservative supply curve)
  - Equipment costs (mainly building shell upgrade costs)
  - Installation practice for electric heating systems
- + A hybrid scenario could potentially “hedge” for this uncertainty given its lower overall costs and narrow cost ranges

Total cost range reflect assumptions regarding fuel costs, equipment cost, and heat pump installation practices  
Sources & assumptions: These charts show incremental resource costs of the scenarios compared to the reference scenario.

**Delivery costs of gas increase dramatically as more and more households electrify**

**Residential gas delivery costs (2021\$/MMBtu)**



- + High Electrification scenario experiences a rapid increase in per unit delivery costs after 2025 due to the reduced gas throughput, regardless of the fact that total delivery cost is lower than in other scenarios
  - High Electrification scenario assumes earning on rate base, depreciation, and O&M growth rates halved after 2025 leading to a 25% decline in total delivery costs by 2045.
  - As gas throughput and peak gas demand declines in the High Electrification scenario, reinvestment and maintenance for the gas system are expected to scale down.
- + Reference, High Decarbonized Gas, and Electrification with Fuel Backup scenarios assume the historical earning on rate base growth rate is halved beginning 2035 assuming STRIDE is completed.

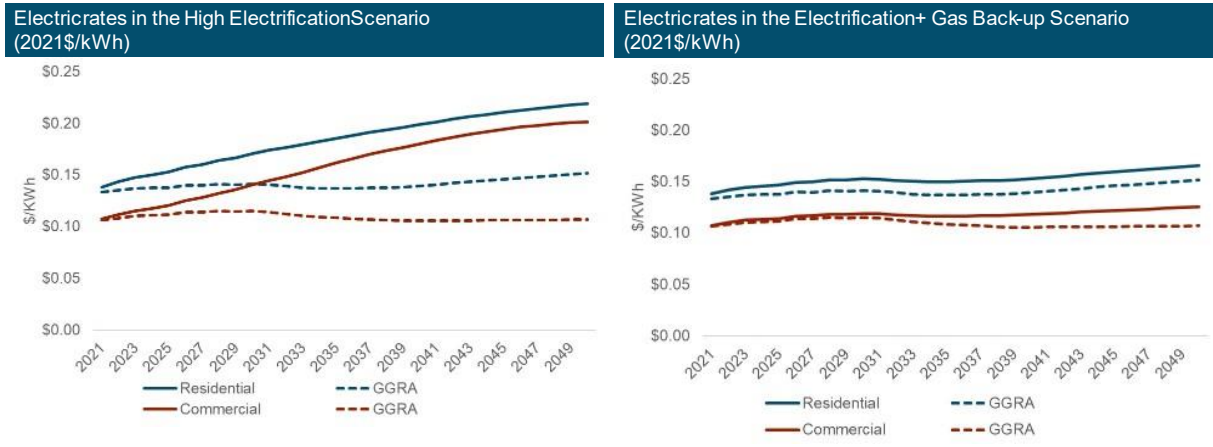
Sources & assumptions: current Revenue Requirement (RR) is estimated using Maryland specific delivery prices per sector from EIA. Rate base increases are based on historical averages and flat capital expenditures (see Appendix). Scenario assumptions: \*Business as Usual\* allocation of Revenue Requirement to customer groups. Cost allocation might shift as the ratio of consumer changes.

Source: Maryland Building Decarbonization Study, Final Report, September 16, 2021  
E3 – Energy + Environmental Economics  
Presentation to the Mitigation Working Group of the Maryland Commission on Climate Change



**High Electrification scenario shows a more rapid electric rate increase compared to Electrification with Gas Back Up**

+ The Electrification + Gas Back-up scenario is projected to have a lower rate increase because it has a smaller load factor and manages to avoid the expensive peak capacity investment.



Source: Maryland Building Decarbonization Study, Final Report, September 16, 2021  
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