Testimony

Submitted on behalf of the
Pennsylvania Chamber of Business and Industry

Public Hearing on the Environmental and Economic Impacts of Pennsylvania's Participation in the Transportation and Climate Initiative

Before the:
Senate Transportation & Environmental Resources and Energy Committees

Presented by:
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Chairmen Yaw, Ward, Santarsiero and Sabatina,

Thank you for the opportunity to present the perspective of the Pennsylvania Chamber of Business and Industry (PA Chamber) on the matter of the proposed multi-state cap and trade program, the Transportation and Climate Initiative.

My name is Kevin Sunday, Director of Government Affairs for the Pennsylvania Chamber of Business and Industry, the largest, broad-based business advocacy organization in the Commonwealth. The nearly 10,000 members of the PA Chamber represent all industrial and commercial categories and sizes; all of them rely on not just a reliable, affordable supply of energy, but a rational, predictable and well-functioning regulatory environment in which to operate.

My testimony this morning will encompass a brief overview of the Chamber's position on energy and environmental policy, followed by a discussion of the significant emissions reductions already achieved and those projected for the future emission reductions from both stationary sources and mobile sources. I will then address the potential impact of this proposal on the Commonwealth's economy and discuss other regulatory actions TCI-participating states have taken that would impose even more pressure on our state's industries and economy.

Pennsylvania Chamber of Business and Industry Statement of Policy on Environmental and Environmental Regulation

For the past several decades, the PA Chamber has been actively involved in issues relating to stewardship of Pennsylvania's environmental resources and development of its energy assets, bringing the perspective of the regulated community to the development and refinement of the state environmental regulations and the implementation of various federal requirements.

As a statement of policy, the PA Chamber believes that environmental stewardship and economic growth are mutually-compatible objectives, and that environmental and natural resources laws and regulatory programs should be framed and implemented to concurrently meet these twin objectives. We seek environmental laws, regulations and policies that:

(1) are based on sound science and a careful assessment of environmental objectives, risks, alternatives, costs, and economic and other impacts;
(2) set environmental protection goals, while allowing and encouraging flexibility and creativity in their achievement;
(3) allow market-based approaches to seek attainment of environmental goals in the most cost-effective manner;
(4) measure success based on environmental health and quality metrics rather than fines and penalties; and
(5) do not impose costs which are unjustified compared to actual benefits achieved;

With regard to greenhouse gas emissions, we support efforts in Pennsylvania which balance societal environmental, energy, and economic objectives, fit rationally within any national or international strategy which may take shape, and capitalize on the availability of Pennsylvania's diverse natural resources to facilitate economic development in the Commonwealth.

We recognize that a changing climate will present significant challenges to Pennsylvania and the United States, and that anthropogenic activities are a contributing factor. Addressing this challenge will necessarily involve the private sector to develop innovative solutions, practices and technologies;

however, we must be judicious in proceeding in a manner that continues to leverage Pennsylvania's historic strengths as an energy producer and a leader in manufacturing, allowing businesses and consumers the choice to develop and utilize the energy solution that works best for them, while still pursuing the desired environmental result. As this testimony will further make clear, competitive markets have delivered greater environmental benefit than cap-and-trade constructs while also driving down costs for consumers.

In Partnership with a Predictable Regulatory Approach, Pennsylvania Businesses and Industry Have Achieved Significant Emissions Reductions – A Trend which is Expected to Continue

The PA Chamber advocates for cost effective air laws, regulations and policies based on sound principles that are reasonable and technologically and economically feasible to protect and enhance public health and the environment without placing in-state businesses at a competitive disadvantage. The PA Chamber supports regulatory policy which balance societal environmental, energy, and economic objectives, fit rationally within any finally adopted and applicable national or international strategy, and capitalize on the availability of Pennsylvania's diverse natural resources to facilitate economic development in the Commonwealth.

It should be noted that this approach to economic growth and environmental stewardship is also written into the federal Clean Air Act itself, where Section 101(b) directs EPA to implement the provisions of the Act in a manner "to promote public health and welfare and the productive capacity of [the] population."

The General Assembly struck a similar tone in its statement of policy within the Air Pollution Control Act, which predated the federal Clean Air Act by a decade. Section 2 of the APCA, the Statement of Policy, reads:

> It is hereby declared to be the policy of the Commonwealth of Pennsylvania to protect the air resources of the Commonwealth to the degree necessary for the (i) protection of public health, safety and well-being of its citizens; (ii) prevention of injury to plant and animal life and to property; (iii) protection of the comfort and convenience of the public and the protection of the recreational resources of the Commonwealth; **(iv) development, attraction and expansion of industry, commerce and agriculture**; and (v) implementation of the provision of the Clean Air Act.[1] [emphasis added]

The implementing regulations of these state and federal statutes are a baseline for the operating practices of sources of emissions, but many businesses go further. For example, among some of our members operating in the trucking and logistics space, adoption of alternative fueled vehicles is a core component of their business and sustainability strategy. Hydrogen, natural gas and electric powered vehicles are being adopted by companies when these options make business sense.

Increasingly, our member companies are developing, evaluating and implementing innovative measures. One such measure is to harness renewable natural gas – that is, hydrocarbons being created from the decomposition and anaerobic digestion of organic matter in the waste and agricultural sector. These processes capture natural gas which might otherwise be flared or emitted and use them for the production of electricity or for vehicle fuels. It has, however, been our member companies' experience that these types of voluntary practices, despite achieving significant emission

[1] The fifth bullet related to implementation of the Clean Air Act was added as part of Act 95 of 1992, which amended the statute.

reductions, are not recognized when regulatory obligations are imposed through cap and trade mandates.

In terms of achieved and forecasted emissions reductions, the state's success in meeting and surpassing federal air quality obligations cannot be emphasized enough. According to DEP and EPA air quality data, the state has achieved the following significant reductions in air emissions statewide since 1996:

Nitrogen oxides	-65%
Volatile organic compounds	-36%
Particulate matter (2.5 ug/m3)	-27%
Particulate matter (10 ug/m3)	-45%
SO2	-90%
Carbon monoxide	-69%
Carbon dioxide	-21%

With regard to reductions in greenhouse gas emissions, since 2005 through 2018 (the most recent year for which data is available), the United States has reduced greenhouse gas emissions by about 819 million metric tons, in large part due to private sector innovation and competition, while the European Union has reduced emissions by 839 million metric tons at considerably greater costs.[2] EU policies – replacing nuclear with renewables, awarding massive government subsidies to particular energy sources, and imposing taxes on both carbon emissions and energy consumption – have resulted in declining household disposable income, as well as retail electric, natural gas and motor fuels prices for residential consumers are more than double that of the United States. Electricity prices for industrial customers are 75% higher and natural gas prices for industrial customers are 143% higher. Should the United States adopt these policies, household energy costs would rise by nearly $5,000 per year and labor markets would shrink by nearly 8 million jobs, with heavy losses in the skilled trades and industrial sectors.[3] We must also note that the considerably higher energy costs imposed by EU's policies do not seem to be spurring much innovation into new technologies.

With specific regard to Pennsylvania, the state's transportation has achieved since 1996 a slight decrease in CO2 emissions from the transportation sector – 1.5 million metric tons or 2.4%.[4] And yet, over these past two decades, Pennsylvania drivers are driving about 7 billion *more* vehicle miles per year, according to federal Census and Federal Highway Administration Data. Overall, the state has since 2005 reduced its greenhouse gas emissions in total tons more than that of all but one other state, according to the most recently available federal EIA data.[5]

The reductions in emissions of CO2 and criteria pollutants have resulted in meaningful improvements in ambient air quality, with several regions of the state now reclassified as

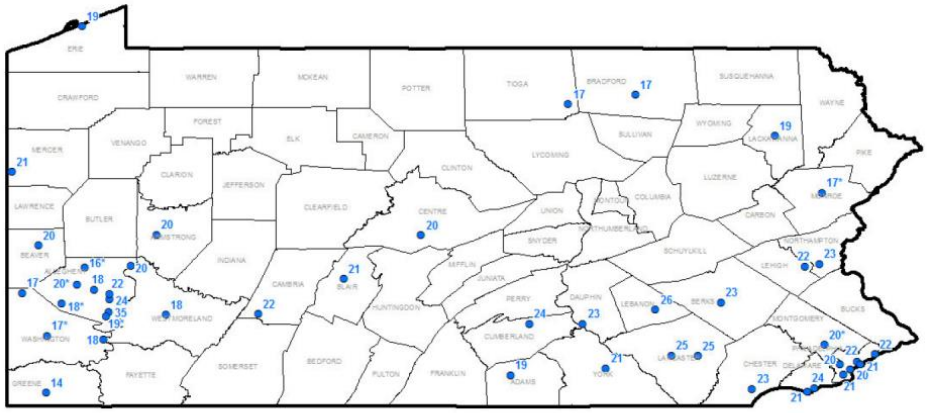
[2] Data available from International Energy Agency's CO2 Emission Statistics data service and 2019 World Energy Outlook. https://www.iea.org/subscribe-to-data-services/co2-emissions-statistics https://www.iea.org/reports/world-energy-outlook-2019

[3] What If the United States Were Forced to Pay EU Energy Prices? United States Chamber of Commerce Global Energy Institute, October 2016. https://www.globalenergyinstitute.org/sites/default/files/CoC_EUReport_FULL_v11.pdf

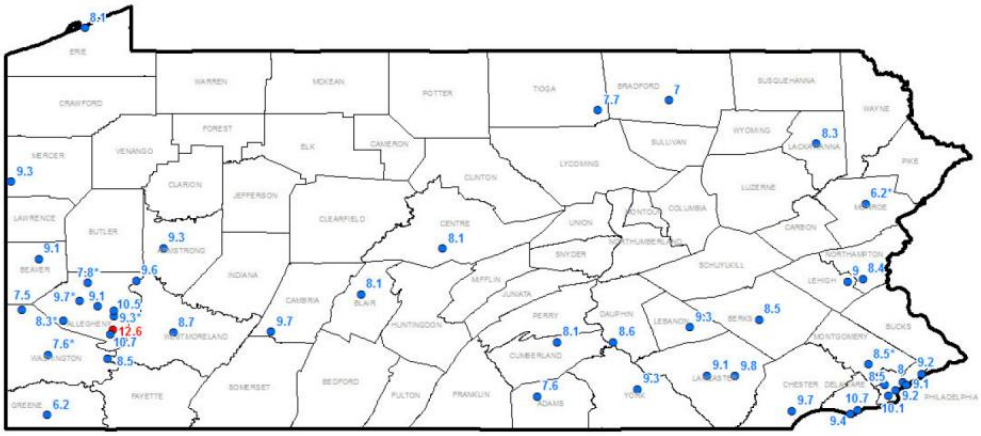
[4] Pennsylvania Carbon Dioxide Emissions, https://www.eia.gov/environment/emissions/state/. Accessed Jan. 20, 2020.

[5] Energy-Related Carbon Dioxide Emissions by State, 2005-2016. U.S. Energy Information Administration. https://www.eia.gov/environment/emissions/state/analysis/

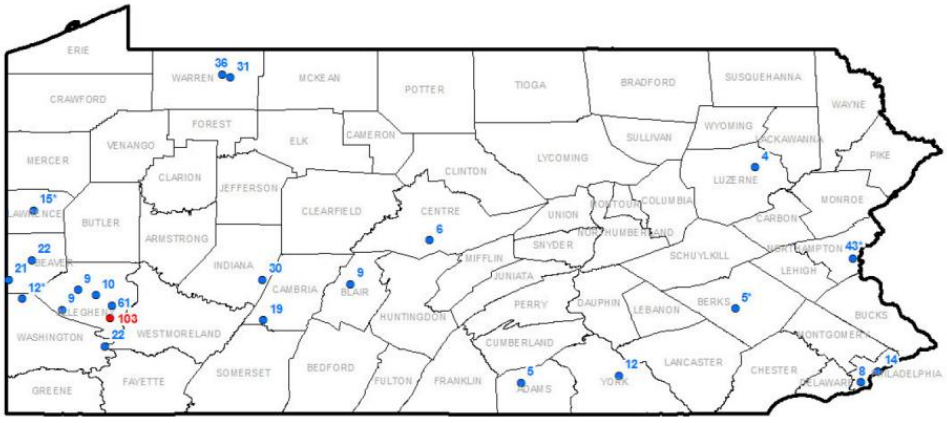
demonstrating attainment with federal ambient air quality standards. DEP employs a statewide network of monitors to track the state of our Commonwealth's air to inform the state's progress in meeting federal air quality standards. As the graphics from DEP below show, every monitoring station in the state is measuring attainment for the daily particulate matter standard, all but one monitoring station is measuring attainment for the annual particulate matter standard and 1-hour SO2 standard, and all but four monitoring stations are measuring attainment of the 8-hour standard for ozone.



Appearing in Red - 2018 24-hour $PM_{2.5}$ Design Values Above the Standard of 35 ug/m^3
Appearing in Blue - 2018 24-hour $PM_{2.5}$ Design Values Below the Standard of 35 ug/m^3

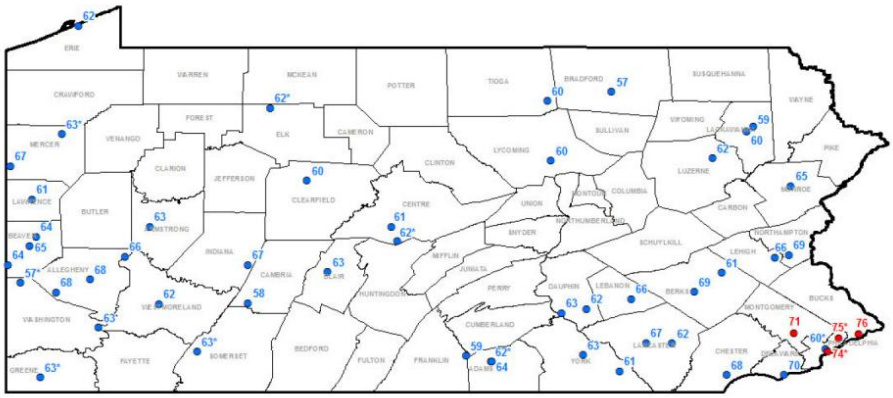


Appearing in Red - 2018 Annual $PM_{2.5}$ Design Values Above the Standard of 12.0 ug/m^3
Appearing in Blue - 2018 Annual $PM_{2.5}$ Design Values Below the Standard of 12.0 ug/m^3



Appearing in Red - 2018 1-Hour SO_2 Design Value above 75 ppb (2010 SO_2 Standard)

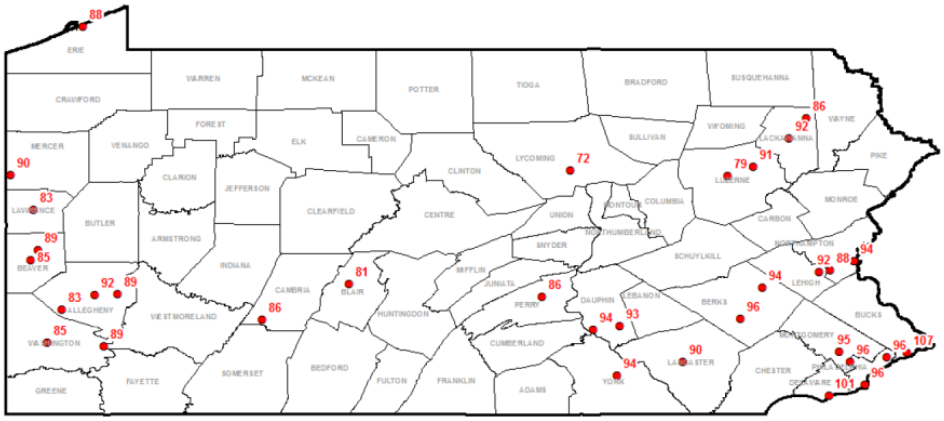
Appearing in Blue - 2018 1-Hour SO_2 Design Value at or below 75 ppb (2010 SO_2 Standard)



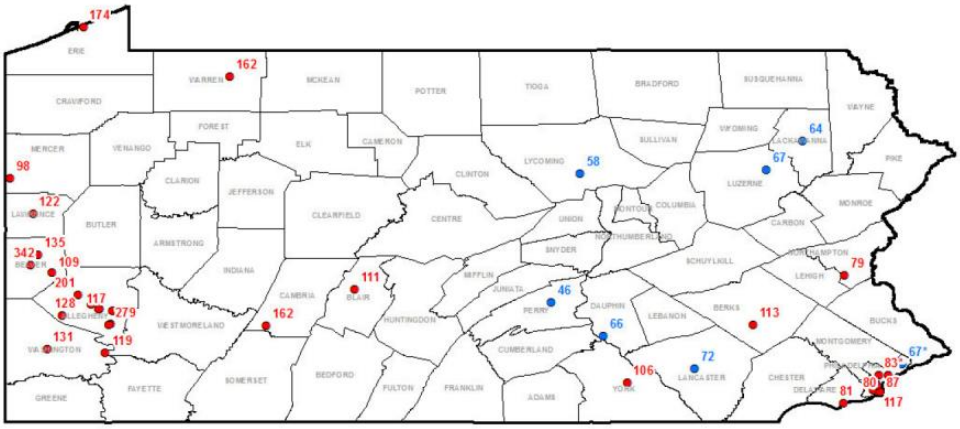
Appearing in Red - Projected 2019 8-Hour Ozone Design Value above 70 ppb (2015 Ozone Standard)

Appearing in Blue - Projected 2019 8-Hour Ozone Design Value at or below 70 ppb (2015 Ozone Standard)

This represents considerable progress compared to where the state was in years past, as the following graphics show. Concentrations of ozone and sulfur dioxide are a fraction of where they were 30 years ago.



Appearing in Red - 1991 8-Hour Ozone Design Value above 70 ppb (2015 Ozone Standard)
Appearing in Blue - 1991 8-Hour Ozone Design Value at or below 70 ppb (2015 Ozone Standard)



Appearing in Red - 1991 1-Hour SO2 Design Value above 75 ppb (2010 SO2 Standard)
Appearing in Blue - 1991 1-Hour SO2 Design Value at or below 75 ppb (2015 SO2 Standard)

Importantly, we have consistently argued in support of flexibility in regulatory approaches, because such a thoughtful design has proven to be effective as borne out by the data just shown. As one example, in 2017 DEP began implementing an air quality rule for stationary sources as part of its ozone regulations. This rule, the Reasonably Achievable Control Technology, afforded industry the opportunity to accept either a presumptive emissions limit or work with the department on a case-by-case evaluation to determine what level of control technology was ***reasonable*** given the facility's technical and economic circumstances. By adopting such an approach, instead of imposing unilateral obligations on a wide swath of industry, DEP took a flexible, tailored approach. The result – a 47% decrease emissions of ozone precursor emissions during the summer months, and the continued opportunity for industry to retain critical operational flexibility. This was a win for the environment and a win for the regulated community.

We have also consistently argued that Pennsylvania ought not depart from federal standards. With respect to emissions from mobile sources, according to federal data, the average real-world CO2 emissions rate for this sector, expressed in grams per mile, is the lowest level ever achieved, and reductions are projected to continue. For emissions of nitrogen oxide emissions from heavy trucking, the Trump administration is working with all stakeholders to develop a new and considerably more stringent emissions standard for new vehicle engines. This rule, to be proposed this year, may results in NOx emission rates that are more stringent than current rules by 50% or more. The Trump administration is also implementing federal greenhouse gas standards for heavy- and medium-duty vehicles that are expected to reduce emissions by more than a billion metric tons by 2027. There are tangible efforts underway at the federal level with respect to mobile source emissions that must be considered as the administration and General Assembly evaluate and regional or state-based initiatives.

TCI's Proposed Fuel Tax May Harm the State's Economy, with Minimal Net Benefit, and May Not Be Consistent with the State Constitution and Air Pollution Control Act

Current federal rules for the mobile source sector are working. Indeed, the TCI's design cost-benefit analysis notes that the implementation of these rules, as well as expected consumer behavior and voluntary industry practices, will achieve a 19% decline in transportation-related CO2 emissions by 2032.

The current proposed design of TCI is to impose a fee on the suppliers of motor vehicle fuels in participating states. This fee, which is expected to increase gasoline costs by five to 17 cents per gallon, is projected to result in a 20 to 25% reduction in CO2 emissions from the sector – or 1 to 6 additional percentage points versus a business-as-usual scenario. Governors in both parties of the states that initially signed on to be involved in the TCI design process have responded to these numbers with a considerable amount of skepticism. New Hampshire Gov. Chris Sununu announced shortly after these numbers were released in December that his state would no longer be participating; Maine Governor Janet Mills has expressed skepticism with the construct; Connecticut Governor Ned Lamott and Vermont Governor Phil Scott has said they cannot support such an additional tax on their drivers.[6] New York Governor Andrew Cuomo had at one point withdrawn his state from participating in the final design process of TCI and his demurred on whether the state will sign the final memorandum of agreement later this spring.[7]

Our members appreciate the basis for these other states' skepticism and have concern the regional approach of TCI will harm our state's industry and economy, while not effectively addressing leakage – that is, the shift in the production and sale of goods to a state that is not participating in the Transportation and Climate Initiative. A recent economic analysis from Resources For the Future and academic researchers, circulated through the National Bureau of Economic Research, found that an increased regional carbon tax in the northeast on power generation would reduce employment in participating states and boost employment in nearby, non-participating states, with the heaviest impacts felt by energy-intensive manufacturing.[8]

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[6] Support Dwindles for Regional Transportation and Climate Initiative, Boston Herald. Jan. 11, 2020. https://www.unionleader.com/news/environment/support-dwindles-for-regional-transportation-climate-initiative/article_a7b89de3-3db7-5770-9c29-7cbd5fb45a48.html

[7] State Absent From Multi-State Transportation Climate Change Push. Albany Times Union, Dec. 20, 2018. https://www.timesunion.com/7dayarchive/article/State-absent-from-multi-state-transportation-13478333.php

[8] How Does State-Level Carbon Pricing in the United States Affect Industrial Competitiveness? Casey, Gray, Linn & Mortgenstern, National Bureau of Economic Research. January 2020. https://www.nber.org/papers/w26629

Further, Section 11 of the state's Constitution restricts the use of proceeds from taxes on "products used in motor transportation" to the sole purpose of the construction, repair and maintenance of highways, roads and bridges. While the TCI model rule has not been finalized, it is unclear at this point whether the aims of the program are compatible with the state constitution's restrictions on motor fuels taxes. In addition, while the state's Air Pollution Control Act gives DEP broad powers to regulate emissions from vehicles and stationary sources, it is also unclear that the act authorizes DEP to collect a fee on suppliers of a fuel based on expected, indirect emissions. The Air Pollution Control Act does, however, obligate DEP to submit to the General Assembly "multistate air pollution control compacts or agreements" (see Section 4. Powers and Duties subsection 24) which would seem to include an agreement to implement TCI.

The state's logistics and petroleum-related industries are major employers in the state. Policies which increase their cost of doing business will jeopardize their ability to operate in Pennsylvania. Roughly 300,000 Pennsylvanians are employed in the logistics industry, according to state Department of Labor statistics, and the oil and gas sectors are estimated to support more than 300,000 jobs, according to an economic analyses conducted by the American Petroleum Institute. While the TCI compliance obligations would fall on suppliers, not refiners, it is reasonable to expect that this program will place considerable stress on the state's existing refiners – which are key to maintaining a reliable source of vehicle and aviation fuel for the region and nation. These are high-value employers, with a state economic report estimating that any layoff that occurs at southeastern refining facilities "will cost the region 18 jobs, the state 22 jobs and the country 61 jobs."[9]

Some TCI States Have Taken Regulatory Action to Worsen the Operating Climate of Pennsylvania Businesses and Industry

With the aforementioned success in emissions reductions on the record, we must now note that several states involved in the design process for TCI have taken actions through the federal Clean Air Act to request more onerous regulatory obligations on Pennsylvania businesses. These states, including New York, New Jersey, Connecticut, Delaware, and Maryland, have petitioned EPA to establish more stringent emissions rules on our member companies' manufacturing and energy infrastructure facilities, alleging that it is the fault of Pennsylvania businesses that these states cannot meet their federal air quality obligations under the National Ambient Air Quality Standards. These petitions have repeatedly, and properly, been rejected by the EPA, but we must note that the state must expend considerable time and resources in responding to these petitions. Some of these same states have also attempted to unilaterally veto the construction of natural gas infrastructure that federal regulators have certified under the standard of public convenience and necessity.

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In closing, thank you for the opportunity to present this information and the perspectives of our members on this matter. We look forward to continuing to engage with the General Assembly and this administration on pro-growth policies in and beyond the energy and transportation sectors. I look forward to answering any questions you may have.

[9] Re-employment Assessment and Economic Impact of ConocoPhillips and Sunoco Closings. January 9, 2012.Pennsylvania Department of Labor & Industry Center for Workforce Information & Analysis. https://www.doleta.gov/performance/results/AnnualReports/PY2012/PA_Impact_Conoco_Sunoco_Closings.pdf