PROPOSAL FOR A LAW
relating to energy and climate

Senate Committee on Sustainable Development and Regional Planning

PART I. Context of the original law

This text relating to energy and climate is inspired by different texts:

- The bill on energy and climate was filed on April 30, 2019 by the Minister for Ecological and Inclusive Transition, Mr. François de Rugy. It has been examined both by the *Economic Affairs Committee* on the merits and by the *Committee Sustainable Development and Regional Planning* for an opinion. The rapporteurs appointed by these two commissions are respectively the LREM deputies Anthony Cellier and Nathalie Sarles. The law is promulgated on November 8, 2021.
- The bill relating to renewable and clean energies, tabled on September 11, 2019 before the Committee for Sustainable Development and Regional Planning of the National Assembly by the deputies of the Les Républicains party . The bill was not debated.
- The bill to place hydroelectricity at the heart of energy transition and economic recovery, tabled on February 25, 2021 by senators from the Les Républicains party. Adopted at first reading in the Senate, it was referred to the Economic Affairs Committee of the National Assembly but was not debated.
- The billto allow the installation of photovoltaic panels on wasteland, filed on October 11, 2021 by senators from the Les Républicains party. Adopted at first reading in the Senate, it was referred to the Economic Affairs Committee of the National Assembly but was not debated.

The text that we are proposing to you therefore has a very broad scope. The challenge for the commission will be both to find a consensus between the parties on the climate objectives to be set and to specify the energy measures to be taken to respect them.

Since the issue of rising energy prices is not addressed in this proposal, this point could potentially be one of the major issues in the debate...

[Note: the explanatory memorandum below is an extract from the explanatory memorandum to the energy and climate bill. For more details on the different points covered, you can consult the explanatory memoranda of the texts mentioned above.]

PART II. Explanatory memorandum

Since 2000, France has adopted objectives and strategic plans to reduce its greenhouse gas (GHG) emissions and initiate its energy transition with the National Plan to Combat Climate Change and then through the Successive Climate Plans. The law on energy transition for green growth (LTECV) set the objective of reducing greenhouse gas emissions by 40% between 1990 and 2030 and dividing them by 4 in 2050 compared to 1990 (Factor 4). France has also set itself other ambitious objectives in terms of reducing energy consumption, developing renewable energies, in order to reach 32% in 2030, and diversifying its electricity mix, with the objective to reduce the share of nuclear power to 50%. All of these objectives contribute to reducing our greenhouse gas emissions.

At the international level, France is committed, with the other European countries, to reducing Europe's emissions by 40% by 2030 compared to 1990 within the framework of the Paris Agreement.

In 2015, France also published the first National Low-Carbon Strategy (SNBC) which set three first carbon budgets until 2028, constituting emission ceilings not to be exceeded for a period of five years. In 2016, it adopted the first Multiannual Energy Program (PPE), which sets ambitious targets for energy efficiency and the development of renewable energies for 2023.

In a context of urgency to act and in response to the call of the Paris Agreement, the Government has raised its ambition, by setting, within the July 2017 Climate Plan, the objective of achieving carbon neutrality by 2050 nationwide. In the terms of the Paris Agreement, carbon neutrality is understood as achieving a balance between greenhouse gas emissions and anthropogenic removals (i.e. removals by managed ecosystems by humans such as forests, grasslands, agricultural soils and wetlands, and by certain industrial processes, such as carbon capture and storage). The work of the SNBC has shown that this carbon neutrality objective is more ambitious than the previous objective of dividing greenhouse gas emissions by four between 1990 and 2050 and corresponds to dividing emissions by a factor of more than six. . At the same time as the long-term ambition has been reinforced, the assessment of the implementation of the SNBC over the first period 2015-2018 has led to the observation that the first carbon budget will be exceeded.

The SNBC is currently being revised to integrate this reinforced ambition and should be published in the first half of 2019. It outlines the path of ecological and inclusive transition in all sectors – transport, buildings, agriculture, forests, energy, industry, waste – and cross-cutting policies – redirection of public and private financial flows, development of resilient and carbon-efficient urban forms, citizen engagement in a low-carbon culture, research and innovation policy, support for professional transitions in the field of 'energy.

The PPE, which defines the trajectory that the Government has set for the next ten years, is also being revised. The work, carried out in close consultation with all the players, has shown the impossibility of respecting all the climate and energy objectives set by the energy transition law at the same time. Reducing the nuclear share to 50% by 2025 would have required the construction of new gas-fired power stations, in contradiction with our climate objectives. It is therefore proposed to extend this deadline to 2035, allowing a realistic and controlled transition to be initiated. Conversely, the work has shown that it is possible to accelerate the reduction in fossil fuel consumption to -40% in 2030 instead of -30%. In particular, the Government has committed to stopping the production of electricity from coal by 2022.

The work carried out within the framework of these two exercises has made it possible to describe an ambitious and credible trajectory, making it possible to diversify our energy mix, while reaffirming the priority devoted to the fight against climate change and the reduction of greenhouse gas emissions. Achieving carbon neutrality requires an in-depth transformation of society, the economy and behaviors.

PART III. Objectives of the articles

Title 1: climatic objectives
Article 1: modification of the energy and climatic objectives of France.

Article 2: setting of regional objectives relating to the deployment of renewable energies and monitoring mechanism in consultation between the regions and the State

Title II: pollution limits for the production of electricity
Article 3: mechanism for limiting the production of gas to greenhouse effect of the electricity production sector

Article 4: implementation of specific support measures to deal with the economic and social consequences induced by the previous article.

Title III: renewable and clean energies

Article 5: definition of the term “clean energy”

Article 6: insertion of the term “clean energy” in the energy code

Title IV: hydroelectricity

Article 7: setting new objectives for hydroelectricity

Title V: photovoltaics

Article 8: mechanism to authorize public authorities to implement photovoltaic panels on wasteland

Title VI: Nuclear

Title VII: Development of a French renewable industry

Title VIII: Conservation of biodiversity

PART IV. Proposal/bill

Changes made by the Senate during its plenary assembly are marked in green

Title I. Climate and renewable energy production objectives

Article 1:

(1) The I ofarticle L. 100-4 of the energy code thus worded “I. - The objectives of the national energy policy are:” is replaced by “I. – To respond to the ecological and climate emergency, the objectives of the national energy policy are:””;

(2) In 1°, the words: "to divide greenhouse gas emissions by four between 1990 and 2050" are replaced by the words: " tend to ~~to reach~~ carbon neutrality by 2050 by dividing greenhouse gas emissions by a factor of more than six between 1990 and 2050"

(3) After the same first sentence, three sentences are inserted as follows: "Carbon neutrality is understood as a balance between anthropogenic emissions and anthropogenic absorptions of greenhouse gases on the national territory. Carbon neutrality is understood as a balance between anthropogenic emissions and anthropogenic absorptions of greenhouse gases on the national territory. The scope of the emissions and absorptions accounted for corresponds to that of the national greenhouse gas inventories. Energy sources requiring additional fossil energy are not included. The scope of the emissions and absorptions accounted for corresponds to that of the national greenhouse gas inventories. Carbon neutrality means without the use of international carbon offset credits. » ;

~~(4) In 3°, the words: "reduce the primary energy consumption of fossil fuels by 30% in 2030" are replaced by the words: "reduce the primary energy consumption of fossil fuels by 40% in 2030"~~

(5) In 4°, the words: “To bring the share of renewable energies to 23% of gross final energy consumption in 2020 and to 32% of this consumption in 2030” are replaced by: “to bring the share of renewable energies to 30% ~~60%~~ of gross final energy consumption by 2028”.

(6) In point 5, the words: "reduce the nuclear share of electricity production to 50% by 2025" are replaced by the words: "aim to reduce the nuclear share of electricity production to 60% ~~50%~~ by 2045.”

Article 2:

(1) I. – Chapter I of Title IV of Book I of the Energy Code is amended as follows:

(2) 2° After Article L. 141-5, is inserted Article L. 141-5-1 as well written:

(3) “Art. L. 141-5-1. – Creation of an exceptional Commission for the rationalization of regional schemes relating to land use planning. A guideline will set the direction of the commission's work. This new regional scheme will aim to define regional guidelines in all areas related to climate objectives and renewable energy production.

(4) "A common method and indicators making it possible to monitor, in a shared manner between the regions and the State as well as between the local authorities of the same region, the deployment

and implementation of the regional objectives for the development of renewable energies are defined according to the procedures set by decree.

Title II. Emission ceiling for electricity generation

Article 3:

(1) I. – Article L. 311-5-3 of the Energy Code is amended as follows:

(2) 1° The sign is inserted at the head of the article: "I.-";

(3) 2° The article is completed by an II worded as follows:

(4) "II. – In order to contribute to the objectives provided for in 1° and 3° of I of Article L. 100-4 and to contribute to compliance with the national ceiling for greenhouse gas emissions for the period 2019-2023 and for the periods following, defined inArticle L. 222-1 A of the Environment Code, the administrative authority sets an emissions cap applicable, as of January 1, 2022, to facilities producing electricity from combustible fossils located in mainland France and emitting more than 0.550 tons of carbon dioxide equivalent per megawatt hour.

(5) "The emissions to be taken into consideration for the application of the preceding paragraph to cogeneration facilities are those resulting from the sum of the production of electricity and the production of heat. Article

4:

(1) II. – Under the conditions provided for in Article 38 of the Constitution, the Government is empowered to take by ordinance, within a period of six months from the publication of this law, any measure falling within the scope of the law allowing the implementation of specific support:

(a) – for employees of companies operating the electricity production facilities mentioned in II of Article L. 311-5-3 of the Energy Code, assigned to these facilities and whose employment would be eliminated due to the closure of these facilities resulting from the provisions of this II;

~~(b) – for the employees of companies subcontracting to the previous ones whose employment would be eliminated due to the end of activity of the electricity production facilities mentioned in the previous paragraph.~~

(c) These measures will aim in particular to promote the reclassification of these employees on sustainable employment.

(d) Employees and subcontractors who have been affected by article 4 can benefit from training centers for possible retraining. For those wanting to stay in this sector, companies will receive hiring bonuses for companies producing clean energy.

Title III. Renewable and clean energies

Article 5

(1) After article L. 211-2 of the energy code, an article L. 211-2-1 is inserted as follows:

(2) "L. 211-2-1. – An energy is considered "carbon-free" when the greenhouse gasemissions harmful to the environment or biodiversity, are ~~nil or very~~ low (below 60 g of carbon dioxide per kWh) and whose energies must be able to meet changing demand and, as far as possible, without the need for fossil energy. A maximum value of emissions is set by decree in Council of State, taken after the opinion of the Energy Regulation Commission.In

Article 6

the penultimate paragraph ofArticle L. 221-7 of the Energy Code, after the second occurrence of the word: "renewable", the words: "or low-carbon" are inserted.

Title IV. Hydroelectricity

Article 7

(1) I of Article L. 100-4 of the Energy Code is amended as follows:

(2) 1° 4° bis is amended as follows:

(3) b) Two sentences are added as follows: "In 2028, the installed capacities hydroelectric power generation must be at least 27.5 gigawatts. A quarter of the increase in installed production capacity between 2016 and 2028 must relate to hydraulic installations with a power of less than 4.5 megawatts. » ;

(4) After 4° ter, a 4° quater is inserted as follows:

(5) "4° quater To increase storage projects in the form of electricity transfer stations by pumping to at least 1.5 gigawatts of installed capacity between 2030 and 2035; ".

(6) "4° quinquies A decree will specify the procedures for setting up new hydraulic installations in consultation with the territories"

(7) The promoter of a project or the manager of a hydraulic installation whose maximum gross power is less than 10 megawatts has a single referent, placed under the authority of the representative of the State in the department, able to process all requests for information and advice relating to the installation project or the hydraulic installation.

Title V. Photovoltaics

Article 8

"Art. L.121-12-1. – Exceptionally and by derogation from Article L. 121-8 of the Town Planning Code, structures necessary for the production of electricity from the radiative energy of the sun may be authorized in a wasteland by the competent administrative authority of the State, after consulting the departmental commission for nature, landscapes and sites. After a period of 4 months, the continuous silence of the competent authority is equivalent to refusal.

Title VI. Nuclear

Article 9

"In the context of reducing the impact of nuclear energy on the environment production efficient and independent electricity, the French government is committed to develop research on nuclear fusion and the treatment of fission waste"

Due to the reliability of French nuclear fission power plants and the strict regulations imposed on their operation and their constant and efficient energy production, nuclear power is considered asenergy carbon secure and essential to the sovereignty of electricity .

Title VII. Development of a French renewable industry

Article 10

"In order to reduce dependence on foreign countries and protect jobs, relocate to France the process of extraction, production and recycling of renewable energies and electrical components "

Article 10 *bis*

"In order to monitor companies in the sustainable development objectives, a commitment inspection committee will meet every 8 ~~6~~ months to examine the activities of the company"

Title VIII. Biodiversity conservation

Article 11

"Ensure the protection of forest cover, to facilitate carbon neutrality."

Article 12

(1) "It is imperative to limit the construction of new wind turbines in areas where they can negatively affect biodiversity."

(2) The construction of a wind turbine is subject to the validation of a scientific council as well as a

representative of the regional or local authority of its place of construction.