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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 2843** Session of  
2008

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INTRODUCED BY REICHLEY, PETRI, BENNINGHOFF, BEYER, CUTLER,  
EVERETT, GODSHALL, HARHART, SAYLOR AND WOJNAROSKI,  
NOVEMBER 17, 2008

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
NOVEMBER 17, 2008

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AN ACT

1 Establishing a carbon dioxide cap-and-trade program; providing  
2 for the powers and duties of the Department of Environmental  
3 Protection; and establishing the Energy and Carbon Savings  
4 Trust Fund.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pennsylvania  
9 Regional Greenhouse Gas Initiative Act.

10 Section 2. Definitions.

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

14 "Allowance." The number of carbon dioxide emissions  
15 allowances to be credited to a carbon dioxide budget unit or to  
16 the general account of the sponsor of an approved carbon dioxide  
17 emissions offset project.

18 "Carbon dioxide budget unit." A fossil fuel-fired electrical

1 generating unit that serves a generator with a nameplate  
2 capacity equal to or greater than 25 megawatts of electrical  
3 output.

4 "Carbon dioxide budget unit compliance obligation account."  
5 An account established by rules and regulations to be adopted by  
6 the Department of Environmental Protection under section 4 in  
7 which carbon dioxide budget units deposit carbon dioxide  
8 emissions allowances.

9 "Carbon dioxide emissions allowance." A limited  
10 authorization by the Department of Environmental Protection for  
11 the emission of up to one ton of carbon dioxide.

12 "Carbon dioxide emissions budget." The total amount of  
13 carbon dioxide emissions allowances allocated by the  
14 Commonwealth on an annual basis.

15 "Carbon dioxide emissions offset project." A project that  
16 reduces or avoids loading of carbon dioxide and other greenhouse  
17 gases in the atmosphere and is demonstrated to qualify as real,  
18 additional, verifiable, enforceable and permanent as those terms  
19 are defined in rules and regulations to be adopted by the  
20 Department of Environmental Protection.

21 "Carbon dioxide offset project allowance." A carbon dioxide  
22 emissions allowance awarded to the sponsor of a carbon dioxide  
23 emissions offset project.

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

26 "Fossil fuel fired." Combustion of fossil fuel when the  
27 fossil fuel combusted constitutes or is projected to constitute  
28 more than 50% of the annual heat input on a British Thermal Unit  
29 basis.

30 "Fund." The Energy and Carbon Savings Trust Fund established

1 under this act.

2 "Generator." A device that produces electricity and is  
3 required to be reported as a generating unit pursuant to the  
4 United States Department of Energy Form 860.

5 "Greenhouse gas." A gas in the Earth's atmosphere that  
6 absorbs and reemits infrared radiation, including carbon  
7 dioxide, nitrus oxide, methane, hydrofluorocarbons,  
8 perfluorocarbons and chlorofluorocarbons.

9 "Gross electrical generation." The electrical output in  
10 megawatts at the terminals of a generator.

11 "Nameplate capacity." The maximum electrical generating  
12 output, expressed in megawatts, which a generator can sustain  
13 over a specified period of time when not restricted by seasonal  
14 or other deratings.

15 "Regional Greenhouse Gas Initiative." The cooperative effort  
16 to reduce carbon dioxide emissions entered into by the governors  
17 of nine states through a Memorandum of Understanding signed on  
18 December 20, 2005.

19 Section 3. Carbon dioxide cap-and-trade program.

20 (a) Established.--There is established in the department a  
21 carbon dioxide cap-and-trade program for the purpose of reducing  
22 carbon dioxide emissions in this Commonwealth. Any carbon  
23 dioxide budget unit shall be subject to the cap-and-trade  
24 program, except that a carbon dioxide budget unit shall be  
25 exempt from the program if any of the following apply:

26 (1) It is incapable of producing enough energy to  
27 generate 25 megawatts or more of electrical output.

28 (2) Its sale of electricity to any power distribution  
29 system is less than 10% of its gross electrical generation on  
30 an annual basis. In calculating this percentage all

1 electricity transmitted to the regional grid over the  
2 facilities of a transmission and distribution utility as a  
3 result of verifiable conservation and demand-side management  
4 initiatives or any emergency mandate of the regional  
5 transmission organization or lawful order of a governmental  
6 authority shall not be included in the calculation of annual  
7 sales.

8 (3) Fifty percent or more of its annual heat input comes  
9 from the combustion of fuels other than fossil fuels.

10 (b) Allocation of annual carbon dioxide emissions  
11 allowances.--In implementing the program established pursuant to  
12 this section, the department shall allocate 100% of the annual  
13 carbon dioxide emissions allowances for public benefit to  
14 produce funds for carbon reduction and energy conservation, as  
15 well as other projects that benefit electric users.

16 Section 4. Base annual carbon dioxide emissions budget.

17 The department shall establish a base annual carbon dioxide  
18 emissions budget based upon Statewide emissions data for the  
19 year ending December 31, 2009. Beginning January 1, 2015, the  
20 annual amount of carbon dioxide emissions goal shall be  
21 decreased 4% each year so that the decrease in annual carbon  
22 dioxide emissions is 12% below the base annual carbon dioxide  
23 emissions amount by December 31, 2018.

24 Section 5. Energy and Carbon Savings Trust Fund.

25 (a) Establishment.--The Energy and Carbon Savings Trust Fund  
26 is hereby established in the State Treasury to support the goals  
27 and implementation of the carbon dioxide cap-and-trade program  
28 established under section 3.

29 (b) Payments.--Any revenue resulting from the sale of carbon  
30 dioxide allowances and any forward capacity market or other

1 capacity payments from the regional transmissions organization  
2 shall be deposited in the fund. The fund shall not be used for  
3 any other purpose, and moneys in the trust fund shall be held  
4 for the purposes of benefiting consumers.

5 (c) Allocations.--The moneys of the fund shall be used to  
6 support the following programs:

7 (1) Energy efficiency and demand-side management  
8 programs. These programs shall include, but may not be  
9 limited to, improving the electrical and thermal efficiency  
10 of this Commonwealth's building stock through weatherization,  
11 energy auditing, energy efficiency work force training,  
12 grants and loan programs for energy efficiency and demand-  
13 side management response measure installation and for the  
14 integration of passive or active solar energy and other  
15 renewable energy systems into a building envelope.

16 (2) At least 25% of the moneys shall be used to assist  
17 low-income residential consumers as defined by the Department  
18 of Public Welfare. These moneys shall be used to supplement  
19 the Low Income Heating Assistance Program and the Low Income  
20 Weatherization Program.

21 (3) Notwithstanding paragraphs (1) and (2), any funds in  
22 excess of the threshold process established by the department  
23 and the commission for any allowance sale made upon adoption  
24 of the regulations by the department that are deposited in  
25 the fund shall be rebated to all electric ratepayers in this  
26 Commonwealth on a per-kilowatt hour basis in a timely manner  
27 to be determined by the commission.

28 Section 6. Regulations.

29 No later than January 1, 2010, the department, in  
30 consultation with the Pennsylvania Public Utility Commission,

1 shall adopt any rules and regulations necessary to implement the  
2 cap-and-trade program established pursuant to section 3. The  
3 rules and regulations shall include, but not be limited to:

4 (1) The establishment of a system for the annual  
5 assignment, sale and distribution of carbon dioxide emissions  
6 allowances consistent with the carbon dioxide emissions  
7 budget.

8 (2) The establishment of carbon dioxide budget unit  
9 compliance obligation accounts.

10 (3) The establishment of carbon dioxide offset project  
11 allowance categories and requirements.

12 (4) The implementation of a licensing process for carbon  
13 dioxide budget units.

14 (5) The establishment of a carbon dioxide emissions  
15 allowance tracking program.

16 (6) The management of the carbon dioxide allowance  
17 auction developed in coordination with other states and  
18 jurisdictions in the Regional Greenhouse Gas Initiative.

19 Section 7. Effective date.

20 This act shall take effect immediately.