

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 29

Special Session No. 1 of  
2007-2008

INTRODUCED BY BROWNE, RAFFERTY, SCARNATI, ERICKSON, ORIE,  
ARMSTRONG, PIPPY, WONDERLING, BAKER, WAUGH, O'PAKE AND  
WASHINGTON, OCTOBER 25, 2007

REFERRED TO ENERGY POLICIES, OCTOBER 25, 2007

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," providing for alternative energy production tax  
11 credit.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, is amended by adding an article to  
16 read:

17 ARTICLE XVIII-C

18 ALTERNATIVE ENERGY PRODUCTION TAX CREDIT

19 Section 1801-C. Definitions.

20 The following words and phrases when used in this article  
21 shall have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

1 "Alternative energy production project." Includes the  
2 following:

3 (1) A facility that utilizes waste coal, biofuel,  
4 biomass, solar power, wind energy, geothermal technologies,  
5 clean coal technologies or other alternative energy sources  
6 as defined in the act of November 30, 2004 (P.L.1672,  
7 No.213), known as the Alternative Energy Portfolio Standards  
8 Act, to produce or distribute renewable energy.

9 (2) A facility that manufactures or produces products  
10 that provide renewable energy.

11 (3) A facility used for the research and development of  
12 technology to provide alternative or renewable energy  
13 sources.

14 "Alternative energy production tax credit." The credit  
15 provided for under this article.

16 "Department." The Department of Revenue of the Commonwealth.

17 "Qualified tax liability." The liability for taxes imposed  
18 under Article III, IV, V or VI. The term does not include any  
19 tax withheld by an employer from an employee under Article III.

20 "Taxpayer." An entity subject to tax under Article III, IV,  
21 V or VI.

22 Section 1802-C. Eligible applicants.

23 A taxpayer who develops or constructs an alternative energy  
24 production project may apply for an alternative energy  
25 production tax credit as provided under this article. By  
26 February 1 of each year, a taxpayer must submit an application  
27 to the department for the amount of the investment in an  
28 alternative energy production project that was made in the  
29 taxable year that ended in the prior calendar year. If the  
30 amount of credits exceeds the limit established under section

1805-C, a taxpayer may reapply for an alternative energy production tax credit in the following tax year and shall be given priority for the credit by the department.

Section 1803-C. Award of tax credits.

A taxpayer that is qualified under section 1802-C may receive an alternative energy production tax credit for the taxable year in an amount equal to 75% of the total amount of all capital, operation and maintenance costs paid for alternative energy technologies in the taxable year to be applied against the taxpayer's qualified tax liability.

Section 1804-C. Carryover and carryback of credit.

(a) Carryover.--If the taxpayer cannot use the entire amount of the alternative energy production tax credit for the taxable year in which the alternative energy production tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the alternative energy production tax credit is carried over to a succeeding taxable year, it is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The alternative energy production tax credit provided under this article may be carried over and applied to succeeding taxable years for no more than five taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--An alternative energy production tax credit approved by the department in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the alternative energy production tax credit is

1 applied against any tax liability under subsection (a).

2 (c) Carryback.--A taxpayer is not entitled to carry back or  
3 obtain a refund of an unused alternative energy production tax  
4 credit.

5 Section 1805-C. Limitation on tax credits.

6 The total amount of credits approved by the department shall  
7 not exceed \$20,000,000 in any fiscal year. If the amount of the  
8 alternative energy production credits applied for in a taxable  
9 year exceeds \$20,000,000, the department shall proportionally  
10 award the tax credits awarded to each taxpayer.

11 Section 1806-C. Reporting.

12 (a) General rule.--No later than September 1 of each year,  
13 the department, in cooperation with the Department of Community  
14 and Economic Development, shall submit a report to the General  
15 Assembly summarizing the effectiveness of the tax credit  
16 provided under this article. The report shall include the name  
17 of each taxpayer utilizing the credit as of the date of the  
18 report and the amount of credits approved for, utilized by or  
19 sold or assigned by each taxpayer. The report may also include  
20 recommendation for changes in the calculation or administration  
21 of the tax credit. The report shall be submitted to the chairman  
22 and minority chairman of the Appropriations Committee of the  
23 Senate, the chairman and minority chairman of the Finance  
24 Committee of the Senate, the chairman and minority chairman of  
25 the Appropriations Committee of the House of Representatives and  
26 the chairman and minority chairman of the Finance Committee of  
27 the House of Representatives. The report shall include the  
28 following information, which shall be separated by geographic  
29 location within this Commonwealth:

30 (1) The amount of credits claimed during the fiscal

1 year.

2 (2) The number of alternative energy production projects  
3 receiving a tax credit and the dollar amount of tax credits  
4 granted under this article in the aggregate and by project.

5 (3) The types, locations and costs of projects.

6 (4) The total amount spent in this Commonwealth during  
7 the fiscal year by each alternative energy production  
8 project.

9 (5) The estimated benefits of the projects in creating  
10 alternative energy.

11 (6) The total amount of tax revenues generated in this  
12 Commonwealth from alternative energy production projects.

13 (7) The total number of jobs created during the fiscal  
14 year by alternative energy production projects.

15 (b) Public information.--Notwithstanding any law providing  
16 for confidentiality of tax records, the following shall be  
17 public information:

18 (1) Information in the report under subsection (a) which  
19 shall be posted on the department's and the Department of  
20 Community and Economic Development's Internet website.

21 (2) The identity of each taxpayer utilizing a tax credit  
22 under this article and the amount of credits approved and  
23 utilized by each taxpayer which shall be made available  
24 annually, beginning no later than one year after the credits  
25 were granted.

26 Section 1807-C. Termination.

27 The department shall not approve an alternative energy  
28 production tax credit under this article for taxable years  
29 ending after December 31, 2015.

30 Section 1808-C. Regulations.

1     The department shall promulgate regulations necessary for the  
2     implementation and administration of this article.

3     Section 2. The addition of Article XVIII-C of the act shall  
4     apply to tax years beginning after December 31, 2007.

5     Section 3. This act shall take effect immediately.