THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL No. 1 Special Session No. 1 of 2007-2008

INTRODUCED BY DePASQUALE, BELFANTI, BENNINGTON, CALTAGIRONE, DALEY, EACHUS, FRANKEL, FREEMAN, GEIST, GEORGE, KESSLER, KORTZ, McCALL, McGEEHAN, McILVAINE SMITH, M. O'BRIEN, PASHINSKI, SIPTROTH, SURRA, VITALI, YUDICHAK, PARKER, WOJNAROSKI, JOSEPHS, WALKO, YOUNGBLOOD, HORNAMAN, MANDERINO, MELIO, SCAVELLO AND K. SMITH, NOVEMBER 15, 2007

SENATOR ARMSTRONG, APPROPRIATIONS, IN SENATE, RE-REPORTED AS AMENDED, JULY 3, 2008

AN ACT

T	Amending Title 64 (Public Authorities and Quasi Public	<
2	Corporations) of the Pennsylvania Consolidated Statutes, in	
3	Commonwealth Financing Authority, further providing for	
4	indebtedness; establishing the Clean Energy Program;	
5	consolidating provisions of The Administrative Code of 1929	
6	relating to the Energy Development Authority and emergency	
7	powers; further providing for board directors, meetings and	
8	quorum, for the powers of the Pennsylvania Energy Development	
9	Authority and for authority indebtedness; and making a	
10	related repeal.	
11	PROVIDING FOR ALTERNATIVE SOURCES OF ENERGY; ESTABLISHING THE	<
12	ALTERNATIVE ENERGY DEVELOPMENT PROGRAM, THE CONSUMER ENERGY	
13	PROGRAM, THE HOME ENERGY EFFICIENCY LOAN PROGRAM, THE HOME	
14	ENERGY EFFICIENCY LOAN FUND AND THE ALTERNATIVE ENERGY	
15	PRODUCTION TAX CREDIT PROGRAM; AND PROVIDING FOR THE POWERS	
16	AND DUTIES OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.	
1 0		
17	The General Assembly of the Commonwealth of Pennsylvania	
10	handhu anasta az fallanz.	
18	hereby enacts as follows:	
19	Section 1. Section 1543(b) and (d) of Title 64 of the	/
19	Section 1. Section 1943(b) and (d) of fitte 04 of the	<u> </u>
20	Pennsylvania Consolidated Statutes are amended by adding	
20	remiservanita consortaacea scacaces are amendea by adding	
21	paragraphs to read:	
	Parajrapho co read	

1	§ 1543. Indebtedness.
2	<u>* * *</u>
3	(b) Program limitations. Indebtedness incurred by the
4	authority under subsection (a) shall not, in aggregate, exceed
5	any of the following:
6	<u>* * *</u>
7	(9) \$250,000,000 for the programs established in section
8	1559 (relating to Clean Energy Program).
9	(10) \$600,000 for the programs established in
10	section 1806(21) (relating to powers and duties).
11	<u>* * *</u>
12	(d) Exception. Subsection (c) shall not apply to the
13	aggregate amount of indebtedness incurred by the authority,
14	including through the issuance of bonds, for the following
15	programs:
16	<u>* * *</u>
17	(4) The programs established in section 1559.
18	(5) The programs established in section 1806(21).
19	<u>* * *</u>
20	Section 2. Title 64 is amended by adding a section to read:
21	<u>§ 1559. Clean Energy Program.</u>
22	(a) Establishment. There is hereby established a program to
23	be known as the Clean Energy Program, and the program shall
24	provide financial assistance for the preparation of sites
25	located within this Commonwealth for future development.
26	(b) Funding. An amount not to exceed \$20,000,000 of the
27	gross receipts collected during each fiscal year under Article
28	<u>XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax</u>
29	<u>Reform Code of 1971, shall be annually appropriated from the</u>
30	General Fund to the authority for the program established in
200	71H0001B0086 - 2 -

- 2 -

1 this section.

2	(c) Uses of funds by authority. With respect to funding
3	under subsection (b), the authority shall have the powers and
4	duties to fulfill the obligations of a bond for alternative
5	energy projects, including, but not limited to, funding for
6	alternative and renewable energy projects, such as:
7	(1) An amount up to 20% of the revenues transferred to
8	the authority, but no more than \$50,000,000 to provide loans
9	to venture capital partnerships. The funds designated for
10	this purpose shall be transferred to the New Pennsylvania
11	Venture Capital Investment Program under section 1557
12	(relating to New Pennsylvania Venture Capital Investment
13	Program).
14	(2) An amount up to 20% of the revenues transferred to
15	the authority, but no more than \$50,000,000 to provide grants
16	and loans for working capital, equipment acquisition,
17	construction and site preparation.
18	(3) An amount up to 60% of the revenues transferred to
19	the authority, but no more than \$150,000,000 to provide
20	grants and loans to businesses and municipalities, municipal
21	authorities, redevelopment authorities and industrial
22	development agencies for infrastructure preparation and
23	development of high efficient advanced energy business sites.
24	(d) Policy. In exercising its powers and duties under
25	subsection (a), the authority shall:
26	(1) Promote the diversification of energy generation by
27	supporting a broad cross section of clean energy
28	technologies.
29	(2) Encourage the deployment of distributed generation
30	projects for public infrastructure around this Commonwealth.
200	71H0001B0086 - 3 -

20071H0001B0086

- 3 -

1	(3) Consider the economic development potential of each
2	proposed project as it fits into the larger context of this
3	Commonwealth's advanced energy market.
4	(4) Establish the goal of expanding the market for clean
5	energy technologies, services and fuels. In pursuit of this
6	goal, the authority shall emphasize the following investment
7	priorities:
8	(i) Attracting or expanding clean energy
9	manufacturing operations in this Commonwealth.
10	(ii) Deployment of clean energy projects at
11	manufacturing facilities to enhance their
12	competitiveness.
13	For purposes of this subsection, "clean energy" shall
14	mean alternative energy sources as defined in the act of
15	November 30, 2004 (P.L.1672, No.213), known as the
16	Alternative Energy Portfolio Standards Act, and
17	alternative fuels, including those defined in the act of
18	November 29, 2004 (P.L.1376, No.178), known as the
19	<u>Alternative Fuels Incentive Act.</u>
20	(5) Bring the most flexibility possible to the design of
21	its financing vehicles and to the focus of its solicitations.
22	Financing vehicles such as loan guarantees, insurance
23	products and flex loans, which can have delayed repayment
24	schedules or very low interest rates, may be utilized in
25	addition to traditional financing for some types of projects.
26	The authority shall emphasize flexibility in its
27	solicitations, which may be broadly targeted to the general
28	advanced energy community or narrowly targeted toward
29	specific areas where market gaps exist.
30	(6) Seek to leverage its capital to the maximum extent

- 4 -

1	possible. The authority may work with the investment and
2	developer community to leverage its funds by requiring
3	significant matching funds for all projects except in rare
4	circumstances and, when allowable, by investing in projects
5	that are likely to yield significant returns. The authority
6	shall consider ways to manage and increase its own funding,
7	including exploration of a variety of potential avenues,
8	including, but not limited to, Federal grants, private
9	foundation grants and legislative appropriations.
10	(7) Require, except in rare circumstances, all projects
11	to demonstrate that they have obtained significant matching
12	funds, including, but not limited to, funds from Federal,
13	<u>State, local or private sources.</u>
14	(8) Evaluate a proposed project to ascertain whether the
15	project has sufficient funding to enable project completion.
16	(9) When considering loans or loan guarantees,
17	thoroughly evaluate, in partnership with the department, the
18	credit of all borrowers and ensure that all financing is
19	awarded to borrowers who evidence a reasonable likelihood of
20	being able to repay the loans.
21	(e) Evaluation criteria. In addition to specific criteria
22	developed by the authority, the following general criteria shall
23	be considered by the authority for all deployment projects:
24	(1) Potential to expand the market for the indigenous
25	energy resources of this Commonwealth.
26	(2) Potential to enhance this Commonwealth's energy
27	security and diversity.
28	(3) Ability to demonstrate significant environmental
29	benefits.
30	(4) Potential to either promote energy conservation or
200	71H0001B0086 - 5 -

1	to increase energy production from alternative energy
2	sources.
3	(5) Potential economic benefits for the Commonwealth,
4	which may be in the form of job creation, new investment,
5	savings to consumers or revenue generation for other
6	beneficiaries, such as farmers, local governments or other
7	landowners.
8	(6) Technical feasibility and cost effectiveness of the
9	project.
10	Section 3. Title 64 is amended by adding a chapter to read:
11	CHAPTER 18
12	ENERGY DEVELOPMENT AUTHORITY AND EMERGENCY POWERS
13	<u>Sec.</u>
14	1801. Definitions.
15	1802. Emergency petroleum product shortages.
16	1803. Energy Development Authority.
17	1804. Technical and financial support.
18	<u>1805. Annual report.</u>
19	1806. Powers and duties.
20	1807. Authority indebtedness.
21	1808. Financial assistance.
22	1809. Energy development plan.
23	1810. Exemption from taxation.
24	1811. Funding of authority.
25	1812. Limitation of powers.
26	<u>1813. Audit.</u>
27	<u>§ 1801. Definitions.</u>
28	The following words and phrases when used in this chapter
29	shall have the meanings given to them in this section unless the
30	<u>context clearly indicates otherwise</u> :

1	"Authority." The Energy Development Authority established in
2	section 1803 (relating to Energy Development Authority).
3	"Board." The board of directors of the Energy Development
4	Authority.
5	<u>"Bonds." Notes, bonds, refunding or renewal notes and bonds</u>
6	and other evidence of indebtedness or obligations which the
7	Energy Development Authority is authorized to issue.
8	<u>"Cost." The expense of construction and the expense of</u>
9	acquisition of all structures, lands and other property rights
10	and interests in land necessary to a project. The term also
11	includes the expense of demolishing, removing or relocating any
12	buildings or structures on lands acquired or to be acquired,
13	including the following:
14	(1) the expense of acquiring any lands to which the
15	buildings or structures may be moved or relocated;
16	(2) sewage treatment, waste treatment and pollution
17	<u>control facilities;</u>
18	(3) railroad sidings, spurs or branch lines;
19	(4) all labor, materials, machinery and equipment and
20	fixtures;
21	(5) financing charges;
22	(6) interest on all bonds prior to and during
23	construction and for a period of one year thereafter;
24	(7) engineering, financial and legal services;
25	(8) plans, specifications, studies, surveys necessary or
26	incidental to determining the feasibility or practicability
27	<u>of constructing a project;</u>
28	(9) administrative expenses;
29	(10) reserves for interest and for extension,
30	enlargements, additions and improvements; and
200	71H0001B0086 - 7 -

- 7 -

1	(11) such other expenses as may be necessary or
2	incidental to the construction of the project and the placing
3	of the same in operation.
4	<u>"Department." The Department of Community and Economic</u>
5	Development of the Commonwealth.
б	<u>"High performance building." A building which is designed to</u>
7	achieve integrated systems of design and construction so as to
8	significantly reduce or eliminate the negative impact of the
9	<u>built environment.</u>
10	<u>"Person." A natural person, corporation, partnership,</u>
11	association or municipality of this Commonwealth and any public
12	corporation, authority or body whatsoever.
13	<u>"Petroleum product." Motor gasoline, kerosene, distillates,</u>
14	including Number 2 fuel oil, and diesel fuel.
15	"Pollution control technology project." The acquisition,
16	construction or installation of pollution control technology and
17	equipment that enables an electric generating unit or
18	cogeneration unit to meet any of the following requirements:
19	(1) Mercury emission reductions under 25 Pa. Code Ch.
20	123 (relating to standards for contaminants).
21	(2) The regulations adopted by the United States
22	Environmental Protection Agency known as the Clean Air
23	Mercury Rule codified at 40 CFR Pts. 60 (relating to
24	standards of performance for new stationary sources), 72
25	(relating to permits regulation) and 75 (relating to
26	<u>continuous emission monitoring).</u>
27	(3) Nitrogen oxides and sulfur dioxide emission
28	reduction under 25 Pa. Code Chs. 121 (relating to general
29	provisions), 129 (relating to standards for sources) and 145
30	(relating to interstate pollution transport reduction).
~ ~ ~ ~	71H0001B0086 - 8 -

- 8 -

1	(4) The Clean Air Interstate Rule in 40 CFR (relating to
2	protection of environment).
3	<u>"Project." An activity entirely or largely conducted in this</u>
4	<u>Commonwealth which cannot be effectively funded using privately</u>
5	available resources, relating to:
б	(1) basic and applied research concerning energy use,
7	renewable energy resources and energy extraction,
8	transmission, storage or conversion;
9	(2) limited scale demonstration of innovative or
10	commercially unproven technology to promote the production,
11	use or conservation of energy;
12	(3) activities to promote or remove obstacles to the
13	utilization and transportation of Pennsylvania energy
14	resources, including, but not limited to, limited scale
15	synthetic fuel facilities and the conversion or technological
16	improvement of industrial, commercial or agricultural systems
17	<u>to utilize Pennsylvania coal or renewable energy resources,</u>
18	except that the facility shall not unreasonably interfere
19	with private waste recycling industries;
20	(4) activities designed to further development or
21	deployment of:
22	(i) alternative energy sources, including those
23	defined in the act of November 30, 2004 (P.L.1672,
24	<u>No.213), known as the Alternative Energy Portfolio</u>
25	Standards Act;
26	(ii) alternative fuels, including those defined in
27	the act of November 29, 2004 (P.L.1376, No.178), known as
28	the Alternative Fuels Incentive Act;
29	(iii) energy efficiency technology; and
30	(iv) energy conservation measures.

- 9 -

1	(5) Activities designed to improve the energy efficiency
2	of large scale industrial production facilities.
3	<u>§ 1802. Emergency petroleum product shortages.</u>
4	(a) General rule. The Governor may, by executive order,
5	proclaim a state of emergency based upon a finding that there
6	<u>impends or exists a substantial shortage of petroleum products</u>
7	available for use in this Commonwealth which poses a serious
8	threat to the health, safety or welfare of the public. A state
9	of emergency shall remain in effect for the maximum period of 90
10	days and may be extended by the Governor unless the extension is
11	disapproved by concurrent resolution adopted by both houses of
12	the General Assembly. A state of emergency may be declared for
13	all or any portion of this Commonwealth.
14	(b) Designation. Upon proclamation of a state of emergency,
15	the Governor shall designate a State agency to conduct emergency
16	allocation measures during the period of the declared emergency.
ΤO	arrocación measures during the period or the decrared emergency.
17	Emergency allocation measures may consist of:
17	Emergency allocation measures may consist of:
17 18	Emergency allocation measures may consist of:
17 18 19	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any
17 18 19 20	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency;
17 18 19 20 21	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency; (2) the implementation of a set aside program, for not
17 18 19 20 21 22	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency; (2) the implementation of a set aside program, for not more than 1% of the petroleum products available for use in
17 18 19 20 21 22 23	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency; (2) the implementation of a set aside program, for not more than 1% of the petroleum products available for use in this Commonwealth, to alleviate hardship or meet emergency
17 18 19 20 21 22 23 24	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency; (2) the implementation of a set aside program, for not more than 1% of the petroleum products available for use in this Commonwealth, to alleviate hardship or meet emergency needs. A set aside program shall be established in conformity
17 18 19 20 21 22 23 24 25	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency; (2) the implementation of a set aside program, for not more than 1% of the petroleum products available for use in this Commonwealth, to alleviate hardship or meet emergency needs. A set aside program shall be established in conformity with any Federal law, regulations or executive orders
17 18 19 20 21 22 23 24 25 26	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any Federal agency: (2) the implementation of a set aside program, for not more than 1% of the petroleum products available for use in this Commonwealth, to alleviate hardship or meet emergency needs. A set aside program shall be established in conformity with any Federal law, regulations or executive orders governing petroleum allocation and shall apply only to
17 18 19 20 21 22 23 24 25 26 27	Emergency allocation measures may consist of: (1) the administration of any emergency allocation powers delegated to the Commonwealth by the President or any <u>Federal agency;</u> (2) the implementation of a set aside program, for not more than 1% of the petroleum products available for use in- this Commonwealth, to alleviate hardship or meet emergency needs. A set aside program shall be established in conformity with any Federal law, regulations or executive orders governing petroleum allocation and shall apply only to petroleum products found to be in a substantial shortage;

1	executive order proclaiming a state of emergency as necessary
2	to protect the public health, safety and welfare.
3	(c) Regulations. The agency designated by the Governor to
4	conduct emergency measures may, during the period of the
5	emergency, adopt rules and regulations pursuant to section 204
6	of the act of July 31, 1968 (P.L.769, No.240), referred to as
7	the Commonwealth Documents Law. Any regulation adopted during a
8	state of emergency shall be automatically rescinded upon the
9	expiration of the emergency.
10	(d) Monitoring. The Governor may designate a State agency
11	to monitor supplies of petroleum products available for use in
12	this Commonwealth to determine whether there exists, or is
13	likely to exist, a shortage.
14	(1) In order to monitor supplies of petroleum products,
15	the agency may require recordkeeping and periodic reports
16	from petroleum suppliers which shall, to the maximum extent
17	possible, employ federally mandated reports and records,
18	avoid duplicative reporting and recordkeeping and minimize
19	paperwork, recordkeeping and reporting requirements.
20	(2) Reports filed and records maintained pursuant to
21	this subsection shall be deemed confidential.
22	(3) When a petroleum supplier or a company providing
23	information to a petroleum supplier claims that the
24	information requested by the agency is confidential,
25	proprietary, market or trade secret information or when the
26	information is deemed confidential pursuant to this section,
27	the agency shall not disclose the information publicly or to
28	any other governmental agency unless the information is
29	aggregated as part of a statistical report in which the data
30	and individual companies supplying the data cannot be
20071H0001B0086 - 11 -	

1 <u>identified.</u>

2	(4) No employee or appointee of the agency or any other
3	person may release information from a petroleum product
4	company that would enable data provided by or relating to
5	individual customers of the petroleum company to be
6	identified as relating to or coming from the individual
7	customer. Any person disclosing the information in violation
8	of this section commits a misdemeanor of the third degree,
9	shall be subject to disciplinary action, including reprimand,
10	suspension or termination, and may be ordered to make
11	restitution to any injured or aggrieved party for losses or
12	damages shown.
13	(5) In order to obtain information required pursuant to
14	this subsection, the agency designated by the Governor to
15	monitor supplies of petroleum products may receive or share
16	information from any other Federal, State or local agency.
17	The agency shall provide the same confidentiality to
18	information recovered as is provided by the supplying agency.
19	<u>§ 1803. Energy Development Authority.</u>
20	(a) Establishment. There is established the Energy
21	Development Authority.
22	(b) Board of directors. The authority shall be governed and
23	all of its corporate powers exercised by a board of directors
24	which shall be composed of the following individuals:
25	(1) The Secretary of Environmental Protection or a
26	designee.
27	(2) The Secretary of Banking or a designee.
28	(3) The Secretary of Community and Economic Development
29	<u>or a designee.</u>
30	(4) The Secretary of Agriculture or a designee.
200	7100010006

20071H0001B0086

- 12 -

1	(5) Four legislative appointees.
2	(i) Appointments are as follows:
3	(A) One individual appointed by the President
4	pro tempore of the Senate.
5	(B) One individual appointed by the Minority
6	Leader of the Senate.
7	(C) One individual appointed by the Majority
8	Leader of the House of Representatives.
9	(D) One individual appointed by the Minority
10	Leader of the House of Representatives.
11	(ii) Legislative appointees shall serve at the
12	pleasure of the appointing authority.
13	(iii) An individual appointed to the board pursuant
14	to subparagraph (i) may not be a member of the General
15	Assembly or staff of a member of the General Assembly.
16	(c) Organization. The Governor shall select a member of the
16 17	(c) Organization. The Governor shall select a member of the board to serve as chairperson. The members shall select from
17	board to serve as chairperson. The members shall select from
17 18	board to serve as chairperson. The members shall select from among themselves such officers as they shall determine.
17 18 19	board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall
17 18 19 20	board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but
17 18 19 20 21	board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses
17 18 19 20 21 22	<pre>board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as</pre>
17 18 19 20 21 22 23	board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.
17 18 19 20 21 22 23 24	<pre>board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. (e) Meetings and quorum. The board of directors shall</pre>
17 18 19 20 21 22 23 24 25	board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. (e) Meetings and quorum. The board of directors shall provide for the holding of regular and special meetings. The
17 18 19 20 21 22 23 24 25 26	<pre>board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. (e) Meetings and quorum. The board of directors shall provide for the holding of regular and special meetings. The consent of at least five directors, with at least four of the</pre>
17 18 19 20 21 22 23 24 25 26 27	<pre>board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. (e) Meetings and quorum. The board of directors shall provide for the holding of regular and special meetings. The consent of at least five directors, with at least four of the consenting directors being appointed under subsection (b)(5),</pre>
17 18 19 20 21 22 23 24 25 26 27 28	<pre>board to serve as chairperson. The members shall select from among themselves such officers as they shall determine. (d) Compensation. Members of the board of directors shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members. (e) Meetings and quorum. The board of directors shall provide for the holding of regular and special meetings. The consent of at least five directors, with at least four of the sonsenting directors being appointed under subsection (b)(5), shall be required to adopt any action on behalf of the</pre>

- 13 -

1	(a) General rule. The Governor shall designate a State
2	agency to provide staff services to the authority for its
3	administration of this chapter, including technical services to
4	assist the authority in carrying out the provisions of this
5	<u>chapter.</u>
6	(b) Personnel and services. The authority may utilize
7	personnel and services from any departments, agencies or other
8	authorities of the Commonwealth whose facilities and services
9	may be useful to the authority for implementation of this
10	chapter upon approval of the departments, agencies or
11	authorities.
12	(c) Reimbursement. The authority may make reimbursement to
13	an agency, department or authority of the Commonwealth for
14	expenses incurred in providing services or use of facilities
15	acquired by the authority.
16	(d) Construction. Notwithstanding 66 Pa.C.S. § 511
17	(relating to disposition, appropriation and disbursement of
18	assessments and fees) or any other law of this Commonwealth, no
19	funds received as reimbursement under this section shall be
20	deemed to be in substitution for funds from another source, nor
21	shall the funds reduce assessments to any utility. No funds
22	shall lapse at termination of a fiscal year, nor shall the funds
23	reduce any assessment by the Pennsylvania Public Utility
24	<u>Commission in any fiscal year.</u>
25	<u>§ 1805. Annual report.</u>
26	The board shall make an annual report of the activities of
27	the authority for the preceding fiscal year, not later than 120
28	days after the conclusion of the fiscal year, to the Governor
29	and General Assembly. Each report shall contain a statement of
30	activities and a complete operating and financial statement
200	71H0001B0086 - 14 -

1	covering the operations of the authority.
2	<u>§ 1806. Powers and duties.</u>
3	The authority, as a public corporation and governmental
4	instrumentality exercising public powers of the Commonwealth, is
5	granted, shall have and may exercise all powers necessary or
6	appropriate to carry out and effectuate the purposes of this
7	chapter, including, but not limited to, the power:
8	(1) To conduct examinations and investigations and take
9	testimony under oath or affirmation at public or private
10	hearings on matters material for its information and
11	necessary to determination and approval of energy development
12	project loan applications.
13	(2) To have existence until its existence shall be
14	terminated by law.
15	(3) To sue and be sued, implead and be impleaded,
16	complain and defend in all courts.
17	(4) To adopt, use and alter at will a corporate seal.
18	(5) To make bylaws for management and regulation of its
19	affairs and make, amend and repeal rules and regulations
20	governing the business of the authority.
21	(6) To seek technical determinations on project
22	applications.
23	(7) To make contracts of every name and nature and
24	execute all instruments necessary or convenient for the
25	carrying on of its business.
26	(8) To accept grants from and enter into contracts or
27	other transactions with Federal agencies.
28	(9) To take title by foreclosure or otherwise to a
29	project or other property pledged, mortgaged, encumbered or
30	otherwise available as security for a project financed in

- 15 -

1	whole or in part by the authority, whether by loan, loan
2	guarantee or otherwise where acquisition is necessary to
3	protect the interests of the authority regarding a project,
4	to pay costs arising out of the acquisition from money held
5	in the Energy Development Fund and to sell, transfer and
6	convey all or any portion of a project to a responsible
7	buyer.
8	(10) To purchase and make payments of mortgages on any
9	project where the purchase or payment is necessary to protect
10	a loan or loan guarantee previously made by the authority and
11	to sell, transfer, convey or assign any such mortgage. Money
12	so used by the authority in the purchase of any mortgage, or
13	any payments thereon, shall be withdrawn from the Energy
14	Development Fund, and money derived from the sale of any
15	mortgages shall be deposited by the authority in the fund.
16	(11) To lease, lease with an option to purchase, sell by
17	installment sale or otherwise, or otherwise dispose of any or
18	all of its projects, for the rentals or amounts and upon such
19	terms and conditions as the authority deems proper.
20	(12) To finance projects by making loans to persons to
21	provide funds for project costs.
22	(13) To guarantee loans of money made to persons, upon
23	the terms and conditions which the authority may prescribe,
24	relating to projects.
25	(14) To make grants to fund projects.
26	(15) To collect fees and charges determined to be
27	reasonable as to activities undertaken in furtherance of the
28	purposes of this chapter.
29	(16) To borrow money for the operation and work of the
30	authority by making notes and issuing bonds under the
20071н	0001B0086 - 16 -

- 16 -

1 provisions of this chapter.

2	(17) To pledge, hypothecate or otherwise encumber
3	revenues or receipts of the authority as security for bonds
4	<u>of the authority.</u>
5	(18) To receive appropriations and apply for and accept
6	grants, gifts, donations, bequests and settlements from a
7	public or private source. Money received by the authority
8	shall be deposited in the Energy Development Fund and used
9	for the purposes of the authority.
10	(19) To promote and facilitate the sale through this
11	<u>Commonwealth of alternative energy credits as defined in the</u>
12	act of November 30, 2004 (P.L.1672, No.213), known as the
13	<u>Alternative Energy Portfolio Standards Act. This paragraph</u>
14	shall not be construed as conferring on the Commonwealth the
15	authority to purchase, acquire or sell alternative energy
16	<u>credits.</u>
17	(20) To establish rebate and incentive programs to help
18	defray the costs to persons associated with the purchase,
19	manufacture or distribution of products used to generate
20	alternative energy or employing energy efficient technology.
21	(21) To enter into agreements with the department and
22	the Ben Franklin Technology Development Authority to provide
23	for the transfer of funds from the Energy Development Fund or
24	other funds under the control of the authority, to be used
25	for energy related activities and to fulfill the obligations
26	of a bond for alternative energy projects, including:
27	(i) An amount up to 9% of the revenues in the fund,
28	but no more than \$56,000,000 to the Ben Franklin
29	Technology Development Authority to support early stage
30	activities, including incubator support services,
20071H	000180086 - 17 -

20071H0001B0086

- 17 -

1	management support, translational research activities and
2	early stage capital. The funds designated for these
3	purposes shall be allocated to the Ben Franklin
4	Technology Partners. Funding shall be subject to the
5	guidelines established by the Ben Franklin Technology
6	Development Authority. The guidelines shall be posted on
7	<u>its official Internet website.</u>
8	(ii) An amount up to 8% of the revenues in the fund,
9	<u>but not more than \$44,000,000 to create a rebate program</u>
10	to lower the retail price of new energy efficient
11	appliances and for a loan program to provide financing
12	for energy efficient home improvements. An amount not to
13	exceed \$5,000,000 shall be allocated to the Treasury
14	<u>Department to establish a loan program, to be known as</u>
15	the Keystone HELP Program, as a revolving loan program
16	offering financing for energy efficient appliances and
17	other energy efficiency measures to homeowners occupying
18	their homes in all customer classes. The funds designated
19	for these purposes shall be limited to use as loan loss
20	reserve funds and to offer loans to low income homeowners
21	occupying their homes at rates lower than those offered
22	to other customer classes.
23	(iii) An amount up to 33% of the revenues in the
24	fund, but not more than \$200,000,000 toward rebates and
25	grants for solar photovoltaic, other solar electric or
26	solar thermal projects and toward production incentives
27	to encourage the establishment or expansion of solar
28	manufacturing operations in this Commonwealth. Not less
29	than 65% of the total funding under this subsection shall
30	be used for rebates and grants for solar photovoltaic,
20071H0001	B0086 - 18 -

- 18 -

1	other solar electric or solar thermal projects. Projects
2	installing solar equipment manufactured in this
3	<u>Commonwealth are eligible for rebates and grants up to</u>
4	15% greater than comparable projects installing equipment
5	manufactured outside this Commonwealth.
6	(iv) An amount up to 45% of the revenues in the
7	fund, but no more than \$270,000,000 to provide grants and
8	loans for alternative energy projects, alternative fuels
9	and demand side management and efficiency measures for
10	all customer classes. The sum of \$25,000,000 under this
11	subparagraph shall be for grants to high performance
12	<u>buildings which meet standards established in guidelines</u>
13	adopted by the department in consultation with the
14	<u>Department of Environmental Protection. These standards</u>
15	shall meet the following minimum criteria:
16	(A) Be consensus based, as defined by the Office
17	<u>of Management and Budget, Circular No. A-119, dated</u>
18	February 10, 1998.
19	(B) Include performance based categories which
20	will foster achievement of the following:
21	(I) Optimization of the energy performance
22	of buildings throughout this Commonwealth.
23	(II) Increase in the demand for
24	environmentally preferable building materials,
25	furnishings and finishes.
26	(III) Improvement in environmental quality
27	in this Commonwealth by decreasing the discharge
28	of pollutants from buildings and their
29	manufacture.
30	(IV) Improvement in working conditions and a
20071H0001	B0086 - 19 -

1	reduction in related health problems.
2	(V) Reduction in this Commonwealth's
3	dependence on imported sources of energy through
4	buildings which conserve energy and utilize local
5	and renewable energy sources.
б	(VI) Protection and restoration of this
7	Commonwealth's natural resources by avoiding
8	development of inappropriate building sites.
9	(VII) Reduction in the burden of municipal
10	water supply and treatment by reducing potable
11	water consumption.
12	(VIII) Reduction in waste generation and the
13	management of waste through recycling and
14	diversion from landfill disposal.
15	(C) Require documentation, verifiable
16	calculations or the equivalent procedure to
17	substantiate and support claims made about
18	performance based categories.
19	(D) Employ third party, postconstruction review
20	and verification of the achievement of standards
21	established in guidelines adopted by the department.
22	(E) Have a performance record of certified green
23	buildings in the United States.
24	(v) An amount not to exceed \$45,000,000 of the gross
25	receipts collected during each fiscal year under Article
26	XI of the act of March 4, 1971 (P.L.6, No.2), known as
27	the Tax Reform Code of 1971, shall be annually
28	appropriated from the General Fund to the authority for
29	the programs established under this subsection.
30	(vi) An amount up to 3% of the revenues in the fund,
20071H0001E	- 20 -

1	but no more than \$25,000,000, to provide for pollution
2	control technology projects which shall be utilized for
3	grants to electric generating units or cogeneration
4	<u>units, as defined under 25 Pa. Code § 123.202 (relating</u>
5	to definitions), that utilize coal, as defined under 25
6	Pa. Code § 123.202, as their primary fuel source, and
7	that have an installed capacity of less than 500
8	megawatts, located in this Commonwealth. Each electric
9	generating unit or cogeneration unit shall be eligible to
10	receive a pro rata share of moneys allocated for
11	pollution control technology projects based on criteria
12	developed by the department.
13	(vii) An amount up to 5% of the revenues in the
14	fund, but no less than \$30,000,000 to provide grants and
15	loans to support the development of wind energy projects,
16	grants and loans to support the development of
17	manufacturing facilities for wind turbines and other wind
18	energy components, and to provide grants to
19	municipalities that host wind energy facilities.
20	<u>§ 1807. Authority indebtedness.</u>
21	(a) General rule. The authority shall have the power and is
22	authorized from time to time, by resolution of the authority and
23	subject to the written approval of the Governor, to issue its
24	negotiable bonds in such principal amount as, in the opinion of
25	the authority, shall be necessary to provide sufficient funds
26	for any of its corporate purposes, the establishment of reserves
27	to secure the bonds and all other expenditures of the authority
28	incident to and necessary or convenient to carry out its
29	corporate purposes and powers. The aggregate principal amount of
30	bonds and notes of the authority shall not exceed \$800,000,000
200	71H0001B0086 - 21 -

- 21 -

1 <u>outstanding at any one time.</u>

2	(b) Refund or renewal. The authority, whenever it deems it
3	expedient, shall have the power to refund or renew any bonds by
4	the issuance of new bonds whether the bonds to be refunded or
5	renewed have or have not matured. Refunding bonds shall be sold
6	and the proceeds applied to the purchase, redemption or payment
7	<u>of the bonds to be refunded.</u>
8	(c) No personal liability. Neither the members of the board
9	of the authority nor any person executing the bonds shall be
10	liable personally on the bonds or be subject to any personal
11	liability or accountability by reason of the issuance thereof.
12	(d) No Commonwealth debt. Bonds issued under the provisions
13	of this chapter shall not be deemed to constitute a debt of the
14	<u>Commonwealth or any political subdivision or a pledge of the</u>
15	faith and credit of the Commonwealth or any political
16	subdivision.
ΤO	
17	(e) Bond requirements.
17	(e) Bond requirements.
17 18	(e) Bond requirements.
17 18 19	(e) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding
17 18 19 20	(e) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the
17 18 19 20 21	(e) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the
17 18 19 20 21 22	(e) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully
17 18 19 20 21 22 23	(e) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully registered without coupons, carry the registration,
17 18 19 20 21 22 23 24	(c) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully registered without coupons, carry the registration, exchangeability and interchangeability privileges, by payment
17 18 19 20 21 22 23 24 25	(c) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully registered without coupons, carry the registration, exchangeability and interchangeability privileges, by payment in medium of payment and at the place or places, be subject
17 18 19 20 21 22 23 24 25 26	(c) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully registered without coupons, carry the registration, exchangeability and interchangeability privileges, by payment in medium of payment and at the place or places, be subject to the terms of redemption, with or without premium, and be
17 18 19 20 21 22 23 24 25 26 27	(c) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully registered without coupons, carry the registration, exchangeability and interchangeability privileges, by payment in medium of payment and at the place or places, be subject to the terms of redemption, with or without premium, and be entitled to the priorities in the revenue or receipts of the
17 18 19 20 21 22 23 24 25 26 27 28	(c) Bond requirements. (1) The bonds of the authority shall be of the series, bear date or dates, mature at the time or times not exceeding 40 years from their respective dates, bear interest at the rate or rates, payable at least semiannually, be in the denominations, be in the form, either coupon or fully registered without coupons, carry the registration, exchangeability and interchangeability privileges, by payment in medium of payment and at the place or places, be subject to the terms of redemption, with or without premium, and be entitled to the priorities in the revenue or receipts of the authority as the resolution or resolutions of the authority

20071H0001B0086

- 22 -

1	facsimile signature of the officers the authority shall
2	determine, and coupon bonds shall have attached to the coupon
3	bond in interest coupons bearing the facsimile signature of
4	the chairman of the authority, all as may be prescribed in
5	the resolution or resolutions of the authority.
6	(3) Bonds may be issued and delivered, notwithstanding
7	that one or more of the officers signing the bonds shall have
8	ceased to be the officer or officers at the time when the
9	bonds shall actually be delivered.
10	(4) Bonds may be sold at public or private sales for the
11	price or prices as the authority shall determine. Pending the
12	preparation of the definitive bonds, interim receipts may be
13	issued to the purchaser or purchasers of the bonds and may
14	contain such terms and conditions as the authority may
15	determine.
16	(5) Any bond reciting in substance that it has been
17	issued by the authority to aid in the financing of one or
18	more projects to accomplish the public purposes of this
19	<u>chapter shall be conclusively deemed in proceedings involving</u>
20	the validity or enforceability of the bond or security for
21	the bond to have been issued for that purpose.
22	(f) Bond provisions. A resolution or resolutions
23	authorizing bonds may contain provisions, which shall be part of
24	the contract with holders of the bonds, as to any of the
25	<u>following</u> :
26	(1) Pledging the full faith and credit of the authority.
27	(2) The terms and provisions of the bonds.
28	(3) Limitations on the purposes to which the proceeds of
29	the bonds then or from then on to be issued may be applied.
30	(4) The setting aside of reserves or sinking funds and
200	71H0001B0086 - 23 -

1	the regulation and disposition of the reserves or sinking
2	funds.
3	(5) Limitations on the issuance of additional bonds.
4	(6) The terms and provisions of any indenture under
5	which the bonds may be issued.
б	(7) Any other or additional agreements with the holders
7	of the bonds.
8	(g) Indentures and other agreements. The authority may
9	<u>enter into indentures or other agreements, with a bank or trust</u>
10	<u>company in or outside this Commonwealth, including a Federal</u>
11	agency, and may assign and pledge all or any of the revenues or
12	receipts of the authority. The indenture or other agreement may
13	<u>contain such provisions as may be customary in such instruments</u>
14	or as the authority may authorize, including, but without
15	limitation, provisions as to:
16	(1) the application of funds and the safeguarding of
17	<u>funds on hand or on deposit;</u>
18	(2) the rights and remedies of the trustee and the
19	holders of the bonds, which may include restrictions upon the
20	individual right of action of the holders; and
21	(3) the terms and provisions of the bonds or any
22	additional bonds or the resolutions authorizing the issuance
23	of the bonds or additional bonds.
24	(h) Negotiable instruments. The bonds shall have all the
25	<u>qualities of negotiable instruments under 13 Pa.C.S. Div. 3</u>
26	(relating to negotiable instruments).
27	(i) Rights and remedies. The rights and remedies conferred
28	upon or granted to the bondholders shall be in addition to and
29	not in limitation of any rights and remedies lawfully granted to
30	the bondholders by the resolution or resolutions providing for
	51

- 24 -

1	the issuance of bonds or by any indenture or other agreement
2	under which the bonds may be issued.
3	(j) Default. In the event that the authority shall default
4	<u>in the payment of principal of premium, if any, or interest on</u>
5	any issue of bonds after the principal, premium or interest
6	shall become due, whether at maturity, upon call for redemption
7	or otherwise and the default shall continue for a period of 30
8	days, or in the event that the authority shall fail or refuse to
9	comply with the provisions of this chapter or shall default in
10	any agreement made with the holders of the bonds, the holders of
11	25% in aggregate principal amount of the bonds then outstanding
12	of the issues, by instrument or instruments filed in the Office
13	<u>of the Prothonotary of the Commonwealth Court, may appoint a</u>
14	trustee to represent the bondholders for the purposes provided
15	in this subsection. The trustee and any trustee under any
16	indenture or other agreement may, and upon written request of
17	the holders of 25% or other percentage as may be specified in
18	any indenture or other agreement, in principal amount of the
19	particular issues of bonds then outstanding shall, in the
20	trustee's own name:
21	(1) By mandamus or other suit, action or proceeding at
22	law or in equity, enforce all rights of the bondholders,
23	including the right to require the authority to carry out any
24	agreement as to or pledge of the revenues or receipts of the
25	authority and to require the authority to carry out any other
26	agreements with or for the benefit of the bondholders and to
27	perform its and their duties under this chapter.
28	(2) Bring suit upon the bonds.
29	(3) By action or suit in equity require the authority to
30	account as if it were the trustee of an express trust for the

- 25 -

1 <u>bondholders.</u>

2	(4) By action or suit in equity enjoin any acts or
3	things which may be unlawful or in violation of the rights of
4	the bondholders.
5	(5) By notice in writing to the authority, declare all
6	bonds due and payable and if all defaults shall be made good,
7	then with the consent of the holders of 25% or such other
8	percentage as may be specified in any indenture or other
9	agreement of the principal amount of bonds then outstanding,
10	to announce the declaration and its consequences.
11	(k) Jurisdiction. The Commonwealth Court shall have
12	jurisdiction of any suit, action or proceeding by the trustee on
13	behalf of the bondholders.
14	(1) Trustee powers.
15	(1) A trustee appointed by the court or trustee acting
16	under an indenture or other agreement, and whether or not all
17	bonds have been declared due and payable, shall be entitled
18	as of right to the appointment of a receiver, who may
19	exercise dominion over the mortgages or other security held
20	by or available to the authority or any part of the
21	authority, the revenues or receipts from which are or may be
22	applicable to the payment of the bonds so in default, and
23	collect and receive all revenues arising after default from
24	the bonds in the same manner as the authority might do and
25	shall deposit all money in a separate account and apply the
26	same in the manner as the court shall direct.
27	(2) In any suit, action or proceeding by a trustee, the
28	fees, the counsel fees and expenses of the trustee and of the
29	receiver, if any, and all costs and disbursements allowed by
30	the court shall be a first charge on any revenues and

20071H0001B0086

- 26 -

1	receipts derived from the mortgages of the authority or other
2	security held by or available to the authority, the revenues
3	or receipts from which are or may be applicable to the
4	payment of the bonds in default.
5	(3) A trustee shall also have all of the power necessary
6	or appropriate for the exercise of any function specifically
7	set forth in this section, in any indenture or other
8	agreement or incident to the general representation of the
9	bondholders in the enforcement and protection of their
10	rights.
11	<u>§ 1808. Financial assistance.</u>
12	(a) General rule. When it has been determined by the
13	authority, upon application and hearing in the manner provided
14	in this section, that the granting of financial assistance will
15	accomplish the public purposes of this chapter, the authority
16	<u>may contract to make financial assistance available in an amount</u>
17	not in excess of the cost of the project.
18	(b) Confirmation of other funding. Prior to committing
19	itself to provide financial assistance under this section, the
20	authority shall have determined that the person requesting the
21	assistance has obtained from other responsible and independent
22	sources, including the Federal Government, banks, savings and
23	loan associations or otherwise, a firm commitment for all other
24	funds, over and above the amount of financial assistance
25	requested from the authority, which in the aggregate shall be
26	sufficient to cover the entire cost of the project.
27	(c) Time period and interest. Any loan, lease, sale,
28	guarantee or other agreement with response to a project shall be
~ ~	
29	for the period of time and shall bear interest at the rate as
29 30	<u>for the period of time and shall bear interest at the rate as</u> shall be determined by the authority and may be secured by

- 27 -

2 lease, guarantee or other sale agreement relates, or w i	<u>.th</u>
3 respect to any other property of the obligor, or any ot	her
4 security which the authority determines to be necessary	<u>.</u>
5 <u>(d) Manner of payment. Money made available for pr</u>	ojects by
6 <u>the authority shall be withdrawn from the appropriate f</u>	unds and
7 paid over to the obligor in the manner provided and pre	scribed
8 by the resolutions, rules and regulations of the author	ity, the
9 loan, lease, sale, guarantee or other agreement and the	2
10 indenture or agreement of trust, if any, relating to th	LC
11 project.	
12 (e) Deposit in appropriate funds. All payments of	<u>interest</u>
13 on funds made available for projects and the principal	amount
14 shall be deposited by or on behalf of the authority in	<u>the</u>
15 <u>appropriate funds.</u>	
16 (f) Application form. Prior to disbursing any fund	ls for, or
17 committing itself to guarantee any indebtedness relatin	g to, or
18 providing technical assistance for a project, the autho	rity
19 shall receive an application in the form and having the	content
20 the authority may prescribe from the person seeking the	2
21 <u>assistance.</u>	
22 <u>§ 1809. Energy development plan.</u>	
23 (a) Contents. In order to devise the most effectiv	<u>e</u>
24 strategy for providing the financial and technical assi	stance
25 authorized in this chapter, the authority shall publish	i by
26 August 15, 1983, a plan for the allocation and distribu	tion of
27 financial and technical assistance. The energy developm	<u>ent plan</u>
28 shall do all of the following:	
29 <u>(1) Place maximum reliance upon allocation and</u>	
30 <u>distribution strategies that exploit the use of othe</u>	<u>r</u>

- 28 -

1 <u>available Federal, State, local and private financial</u>

2 <u>support.</u>

3	(2) Allocate appropriated authority funds, money made
4	available from payment of principal and interest received by
5	the authority not otherwise payable to other creditors or
6	bondholders and other funds available to the authority to
7	projects whose likelihood or implementation would be
8	diminished unless financial and technical assistance from the
9	authority is made available.
10	(3) Provide for the approval of assistance for projects
11	that will make the greatest possible contributions to energy
12	conservation and development.
13	(4) Provide financial and technical assistance only to
14	persons with a demonstrated need and who evidence reasonable
15	likelihood of being able, in the case of loans and loan
16	guarantees, to repay the loans.
17	(5) Identify the various classes of projects to be
18	provided with financial and technical assistance and allocate
19	available authority funds among these classes. Specifically,
20	the authority shall consider increasing coal production and
21	the use of renewable fuels and in energy efficiency in
22	buildings and industry in establishing its priorities.
23	(6) Establish application procedures and criteria for
24	granting financial and technical assistance.
25	(7) Establish procedures for the periodic updating and
26	revision of the energy development plan.
27	(b) Public hearings. The authority shall hold public
28	hearings at locations throughout this Commonwealth to receive
29	comments upon and suggestions for the improvement of the energy
30	<u>development plan. These hearings shall be concluded within 90</u>
200	71H0001B0086 - 29 -

1	days of the publication of the initial plan. Not more than 90
2	days following the completion of hearings, the authority shall
3	promulgate its final energy development plan.
4	<u>§ 1810. Exemption from taxation.</u>
5	(a) Exemption. The effectuation of the authorized purposes
б	of the authority is for the benefit of the people of this
7	<u>Commonwealth and since the authority will as a government</u>
8	instrumentality of the Commonwealth be performing essential
9	government functions in effectuating the purposes, the bonds or
10	other evidences of indebtedness issued by the authority, their
11	transfer and the income from the bonds shall at all times be
12	free from taxation within this Commonwealth.
13	(b) Interest on certain bonds. The authority may covenant
14	and consent that the interest on certain of its bonds shall be
15	<u>includable, under the Internal Revenue Code of 1986 (Public Law</u>
16	<u>99–514, 26 U.S.C. § 1 et seq.) or any subsequent corresponding</u>
17	internal revenue laws of the United States, in the gross income
18	of the holders of the bonds to the same extent and in the same
19	manner that the interest on bills, bonds, notes or other
20	obligations of the United States is includable in the gross
21	income of the holders thereof under the Internal Revenue Code of
22	1986. Notwithstanding any covenant or consent of the authority,
23	the exemption provided in subsection (a) shall not be affected.
24	<u>§ 1811. Funding of authority.</u>
25	(a) Energy Development Fund. A special account is hereby
26	created in the State Treasury to be known as the Energy
27	Development Fund. The fund shall be used to prepare the energy
28	<u>development plan, to pay for initial administrative costs</u>
29	associated with initial bond issues, to make grants for limited
30	research and pursuant to this chapter to establish such reserves
200	714000180086 _ 30 _

- 30 -

1	as in the indemont of the outbouite with memory to loops
1	as in the judgment of the authority with respect to loans
2	guaranteed or bonds issued by the authority may be necessary or
3	<u>desirable or to accomplish any other of its corporate purposes.</u>
4	(b) Administrative costs. As often as may be necessary, the
5	authority shall requisition from the appropriate funds the
6	amounts necessary to provide adequate funds for the payment of
7	the administrative costs related to this chapter.
8	(c) Excess funds. At any time that the authority shall
9	determine that funds held for the credit of the Energy
10	<u>Development Fund are in excess of the amount needed to carry out</u>
11	the purposes of this chapter, the authority shall take such
12	action as shall be required to release the excess from the fund
13	and transfer the same to the General Fund of the State Treasury.
14	<u>§ 1812. Limitation of powers.</u>
15	The Commonwealth pledges to and agrees with any person or
16	Federal agency subscribing to or acquiring the bonds to be
17	issued by the authority for the construction of any project or
18	part of the project, that the Commonwealth will not limit or
19	alter adversely the rights vested in the authority until all
20	bonds at any time issued, together with the interest, are fully
21	met and discharged. The Commonwealth further pledges to and
22	agrees with any Federal agency that if the Federal agency shall
23	construct or contribute funds for the construction of any
24	project or any portion of the project, the Commonwealth will not
25	alter or limit the rights and powers of the authority in any
26	manner that would be inconsistent with the continued maintenance
27	and operation of any project or the improvement of the project,
28	or that would be inconsistent with the due performance of any
28 29	
	or that would be inconsistent with the due performance of any

- 31 -

1	granted under this chapter, as long as the same shall be
2	necessary or desirable for carrying out the purposes of this
3	chapter and the purposes of the United States pertaining to the
4	construction, acquisition or improvement of any project or
5	portion of the project.
6	<u>§ 1813. Audit.</u>
7	The accounts and books of the authority, including its
8	receipts, disbursements, contracts, mortgages, investments and
9	other matters relating to its finances, operation and affairs
10	shall be examined and audited every two years by the Auditor
11	<u>General.</u>
12	Section 4. The following apply:
13	(1) The General Assembly declares that the repeal under
14	paragraph (2) is necessary to effectuate the addition of 64
15	Pa.C.S. Ch. 18.
16	(2) Article XXVIII C of the act of April 9, 1929
17	(P.L.177, No.175), known as The Administrative Code of 1929,
18	is repealed.
19	Section 5. The addition of 64 Pa.C.S. Ch. 18 is a
20	continuation of Article XXVIII C of the act of April 9, 1929
21	(P.L.177, No.175), known as The Administrative Code of 1929. The
22	following apply:
23	(1) Except as otherwise provided in 64 Pa.C.S. Ch. 18,
24	all activities initiated under Article XXVIII C of The
25	Administrative Code of 1929 shall continue and remain in full
26	force and effect and may be completed under 64 Pa.C.S. Ch.
27	18. Orders, regulations, rules and decisions which were made
28	under Article XXVIII C of The Administrative Code of 1929 and
29	which are in effect on the effective date of section 2(2) of
30	this act shall remain in full force and effect until revoked,
200	71H0001B0086 - 32 -

1	vacated or modified under 64 Pa.C.S. Ch. 18. Contracts,
2	obligations and collective bargaining agreements entered into
3	under Article XXVIII C of The Administrative Code of 1929 are
4	not affected nor impaired by the repeal of Article XXVIII-C
5	of The Administrative Code of 1929.
6	(2) Except as set forth in paragraph (3), any difference
7	in language between 64 Pa.C.S. Ch. 18 and Article XXVIII C of
8	The Administrative Code of 1929 is intended only to conform
9	to the style of the Pennsylvania Consolidated Statutes and is
10	not intended to change or affect the legislative intent,
11	judicial construction or administration and implementation of
12	Article XXVIII C of The Administrative Code of 1929.
13	(3) Paragraph (2) does not apply to the following
14	provisions:
15	(i) Paragraphs (3), (4) and (5) of the definition of
16	"project" in 64 Pa.C.S. § 1801.
17	(ii) 64 Pa.C.S. § 1802(d)(4).
18	(iii) 64 Pa.C.S. § 1803(b), (c), (d) and (e).
19	(iv) 64 Pa.C.S. § 1806(2), (14), (19), (20) and
20	(21).
21	(v) 64 Pa.C.S. § 1807(a) and (c).
22	(vi) 64 Pa.C.S. § 1809(a).
23	(vii) 64 Pa.C.S. § 1811(a).
24	Section 6. This act shall take effect immediately.
25	CHAPTER 1 <
26	PRELIMINARY PROVISIONS
27	SECTION 101. SHORT TITLE.
28	THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ALTERNATIVE
29	ENERGY INVESTMENT ACT.
30	SECTION 102. DEFINITIONS.
200	714000180086 _ 33 _

- 33 -

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
 CONTEXT CLEARLY INDICATES OTHERWISE:

4 "ALTERNATIVE ENERGY PRODUCTION PROJECT." THE DEVELOPMENT OR5 CONSTRUCTION OF THE FOLLOWING:

6 (1) A FACILITY THAT UTILIZES WASTE COAL, ALTERNATIVE
7 FUELS, BIOMASS, SOLAR ENERGY, WIND ENERGY, GEOTHERMAL
8 TECHNOLOGIES, CLEAN COAL TECHNOLOGIES, WASTE ENERGY
9 TECHNOLOGIES OR OTHER ALTERNATIVE ENERGY SOURCES AS DEFINED
10 IN THE ACT OF NOVEMBER 30, 2004 (P.L.1672, NO.213), KNOWN AS
11 THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT, TO PRODUCE OR
12 DISTRIBUTE ALTERNATIVE ENERGY.

13 (2) A FACILITY THAT MANUFACTURES OR PRODUCES PRODUCTS,
14 INCLUDING COMPONENT PARTS, THAT PROVIDE ALTERNATIVE ENERGY OR
15 ALTERNATIVE FUELS, IMPROVE ENERGY EFFICIENCY OR CONSERVE
16 ENERGY.

17 (3) A FACILITY USED FOR THE RESEARCH AND DEVELOPMENT OF
18 TECHNOLOGY TO PROVIDE ALTERNATIVE ENERGY SOURCES OR
19 ALTERNATIVE FUELS.

20 (4) A PROJECT FOR THE DEVELOPMENT OR ENHANCEMENT OF RAIL
 21 TRANSPORTATION SYSTEMS THAT DELIVER ALTERNATIVE FUELS OR HIGH
 22 EFFICIENCY LOCOMOTIVES.

23 "ALTERNATIVE ENERGY SYSTEM." ENERGY GENERATED FROM
24 ALTERNATIVE ENERGY SOURCES AS DEFINED UNDER THE ACT OF NOVEMBER
25 30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY
26 PORTFOLIO STANDARDS ACT. THE TERM SHALL NOT INCLUDE A SYSTEM
27 THAT IS DEFINED AS A DEMAND-SIDE MANAGEMENT SYSTEM CONSISTING OF
28 THE MANAGEMENT OF CUSTOMER CONSUMPTION OF ELECTRICITY OR THE
29 DEMAND FOR ELECTRICITY.

30 "AUTHORITY." THE COMMONWEALTH FINANCING AUTHORITY 20071H0001B0086 - 34 - 1 ESTABLISHED UNDER 64 PA.C.S. CH. 15 (RELATING TO COMMONWEALTH 2 FINANCING AUTHORITY).

BUSINESS." A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP,
LIMITED LIABILITY COMPANY, BUSINESS TRUST OR OTHER COMMERCIAL
ENTITY APPROVED BY THE AUTHORITY. THE TERM SHALL INCLUDE NOTFOR-PROFIT ENTITIES.

7 "CLEAN ENERGY PROJECT." A PROJECT WHICH DOES ANY OF THE 8 FOLLOWING:

9 (1) REPLACES OR SUPPLEMENTS AN EXISTING ENERGY SYSTEM 10 THAT UTILIZES NONRENEWABLE ENERGY WITH AN ENERGY SYSTEM THAT 11 UTILIZES ALTERNATIVE ENERGY.

12 (2) FACILITATES THE INSTALLATION OF AN ALTERNATIVE
13 ENERGY SYSTEM IN AN EXISTING BUILDING OR IN NEW CONSTRUCTION
14 OR A MAJOR RENOVATION OF A BUILDING.

15 (3) FACILITATES THE CONSTRUCTION OF A NEW HIGH
16 PERFORMANCE BUILDING, THE RETROFIT OF AN EXISTING BUILDING TO
17 MEET HIGH PERFORMANCE BUILDING STANDARDS OR THE PREPARATION
18 OF A SITE FOR HIGH PERFORMANCE BUILDING DEVELOPMENT,

19 INCLUDING EQUIPMENT ACQUISITION, CONSTRUCTION, INFRASTRUCTURE20 AND SITE PREPARATION.

21 (4) INSTALLS EQUIPMENT TO FACILITATE OR IMPROVE ENERGY
22 CONSERVATION OR ENERGY EFFICIENCY, INCLUDING HEATING AND
23 COOLING EQUIPMENT AND SOLAR THERMAL EQUIPMENT.

24

(5) AN ENERGY SERVICE PROJECT.

25 "CONSUMER ENERGY CONSERVATION PROJECT." THE PURCHASE OR26 INSTALLATION OF ANY OF THE FOLLOWING:

27 (1) ENERGY EFFICIENT WINDOWS AND DOORS, INCLUDING
28 WINDOWS AND DOORS WITH LOW-EMISSIVITY GLASS, COATINGS AND
29 GLAZINGS.

30 (2) GEOTHERMAL HEAT PUMPS.

20071H0001B0086

- 35 -

(3) INSULATION, AIR-SEALING AND OTHER ENERGY SAVING
 PROJECTS APPROVED BY THE DEPARTMENT.

3 (4) ENERGY EFFICIENT OR ALTERNATIVE ENERGY HEATING AND
4 COOLING EQUIPMENT OR SYSTEMS.

5 (5) ENERGY EFFICIENT SOLID FUEL RESIDENTIAL FURNACES, AS
6 APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, TO
7 INCLUDE FURNACES THAT BURN COAL OR WOOD PELLETS.

8 (6) ENERGY EFFICIENT LIGHTING SYSTEMS FOR SMALL
9 BUSINESSES.

10 "DATA CENTER." A FACILITY USED TO HOUSE COMPUTER SYSTEMS AND 11 ASSOCIATED COMPONENTS, SUCH AS TELECOMMUNICATIONS AND STORAGE 12 SYSTEMS.

13 "DATA CENTER CONSOLIDATION PROJECT." A PROJECT, AS 14 DETERMINED BY THE AUTHORITY, THAT UTILIZES SERVER VIRTUALIZATION 15 TECHNOLOGY TO CONSOLIDATE AND REDUCE THE REQUIRED NUMBER OF 16 SERVERS AT A DATA CENTER FOR THE PURPOSE OF INCREASED ENERGY 17 EFFICIENCY AND REDUCED ENERGY DEMAND.

18 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF 19 THE COMMONWEALTH.

20 "ENERGY EFFICIENT EQUIPMENT." EQUIPMENT PURCHASED FOR
21 MANUFACTURING OR PROCESSING WHICH IS DESIGNED TO UTILIZE
22 SIGNIFICANTLY LESS ENERGY THAN THE INDUSTRY STANDARD AT THE TIME
23 OF PURCHASE AS DETERMINED BY THE DEPARTMENT.

24 "ENERGY EFFICIENT HEATING AND COOLING EQUIPMENT." HEATING 25 AND COOLING EQUIPMENT DESIGNED TO UTILIZE SIGNIFICANTLY LESS 26 ENERGY THAN THE INDUSTRY STANDARD AT THE TIME OF PURCHASE AS 27 DETERMINED BY THE DEPARTMENT.

28 "ENERGY SERVICE PROJECT." A PROJECT UNDERTAKEN BY A
29 POLITICAL SUBDIVISION PURSUANT TO AN ENERGY SAVINGS CONTRACT
30 WITH A QUALIFIED PROVIDER UNDER 62 PA.C.S. CH. 37 SUBCH. E
20071H0001B0086 - 36 -

(RELATING TO GUARANTEED ENERGY SAVINGS CONTRACTS) AND THE ACT OF
 MAY 10, 1996 (P.L.153, NO.29), KNOWN AS THE GUARANTEED ENERGY
 SAVINGS ACT.

4 "HIGH PERFORMANCE BUILDING." A BUILDING THAT ADHERES TO
5 STANDARDS ADOPTED BY THE DEPARTMENT OF GENERAL SERVICES, IN
6 CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION,
7 THAT OPTIMIZE THE ENERGY PERFORMANCE OF BUILDINGS.

8 "POLLUTION CONTROL TECHNOLOGY PROJECT." THE ACQUISITION,
9 CONSTRUCTION OR INSTALLATION OF POLLUTION CONTROL TECHNOLOGY AND
10 EQUIPMENT THAT ENABLES AN ELECTRIC GENERATING UNIT OR
11 COGENERATION UNIT TO MEET ANY OF THE FOLLOWING REQUIREMENTS:

12 (1) MERCURY EMISSION REDUCTIONS UNDER 25 PA. CODE CH.
13 123 (RELATING TO STANDARDS FOR CONTAMINANTS).

14 (2) THE REGULATIONS ADOPTED BY THE UNITED STATES
15 ENVIRONMENTAL PROTECTION AGENCY KNOWN AS THE CLEAN AIR
16 MERCURY RULE CODIFIED AT 40 CFR PTS. 60 (RELATING TO
17 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES), 72
18 (RELATING TO PERMITS REGULATION) AND 75 (RELATING TO
19 CONTINUOUS EMISSION MONITORING).

20 (3) NITROGEN OXIDES AND SULFUR DIOXIDE EMISSION
21 REDUCTION UNDER 25 PA. CODE CHS. 121 (RELATING TO GENERAL
22 PROVISIONS), 129 (RELATING TO STANDARDS FOR SOURCES) AND 145
23 (RELATING TO INTERSTATE POLLUTION TRANSPORT REDUCTION).

24 (4) THE CLEAN AIR INTERSTATE RULE IN 40 C.F.R. (RELATING25 TO PROTECTION OF ENVIRONMENT).

26 "SERVER." A DEVICE ON A COMPUTER NETWORK THAT MANAGES
27 NETWORK RESOURCES, INCLUDING DEVICES TO MANAGE NETWORK TRAFFIC,
28 STORE FILES OR PROCESS DATABASE QUERIES.

29 "SERVER VIRTUALIZATION TECHNOLOGY." THE PRACTICE OF HOSTING30 A SOFTWARE OPERATING SYSTEM WITHIN A VIRTUAL MACHINE.

20071H0001B0086

- 37 -

"SITE PREPARATION PROJECT." THE CONSTRUCTION OF WATER AND
 SEWER LINES, STORM WATER SYSTEMS, EXCAVATION, CONSTRUCTION OF
 ACCESS ROADS, PARKING FACILITIES, PIPELINES, TRANSFORMERS AND
 UTILITY TRANSMISSION LINES AND TRAFFIC CONTROL DEVICES.

5 "SMALL BUSINESS." A PERSON THAT IS ENGAGED IN A FOR-PROFIT
6 ENTERPRISE AND THAT EMPLOYS 100 OR FEWER INDIVIDUALS. THE TERM
7 INCLUDES AN AGRICULTURAL PRODUCER OF A FARM COMMODITY.

8 "TAX REFORM CODE OF 1971." THE ACT OF MARCH 4, 1971 (P.L.6,
9 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

10 "VIRTUAL MACHINE." A SELF-CONTAINED SOFTWARE OPERATING 11 ENVIRONMENT THAT OPERATES WITHIN A SERVER AND SIMULATES A 12 HARDWARE DEVICE, SUCH AS A COMPUTER OR A SERVER.

13

CHAPTER 3

14 ALTERNATIVE ENERGY DEVELOPMENT PROGRAM15 SECTION 301. PROGRAM.

16 THE ALTERNATIVE ENERGY DEVELOPMENT PROGRAM IS ESTABLISHED.
17 THE PURPOSE OF THE PROGRAM IS TO FUND PROJECTS UNDER THIS
18 CHAPTER.

19 SECTION 302. APPROPRIATION.

20 FOLLOWING THE EXPIRATION OF ONE OR MORE GENERATION RATE CAPS 21 ESTABLISHED IN AN ELECTRIC UTILITY RESTRUCTURING PROCEEDING 22 UNDER 66 PA.C.S. § 2804(4) (RELATING TO STANDARDS FOR RESTRUCTURING OF ELECTRIC INDUSTRY), AN AMOUNT NOT TO EXCEED 23 24 \$40,000,000 SHALL BE ANNUALLY APPROPRIATED FROM THE GENERAL FUND 25 TO THE AUTHORITY. THE AUTHORITY SHALL USE THE FUNDS TO INCUR 26 INDEBTEDNESS UNDER THIS SECTION IN AN AMOUNT UP TO \$500,000,000 27 PLUS THE PAYMENT OF ALL REASONABLE COSTS AND EXPENSES RELATED TO 28 THE ISSUANCE OF INDEBTEDNESS IN ACCORDANCE WITH 64 PA.C.S. CH. 29 15 (RELATING TO COMMONWEALTH FINANCING AUTHORITY) FOR UP TO 30 30 YEARS. FOR FISCAL YEARS 2008-2009 THROUGH 2037-2038, THE 20071H0001B0086 - 38 -

\$40,000,000 APPROPRIATED UNDER THIS SECTION, OR AS MUCH THEREOF 1 2 AS MAY BE NECESSARY, SHALL BE USED BY THE AUTHORITY FOR PAYMENT 3 OF DEBT SERVICE. PROCEEDS FROM ANY DEBT INCURRED UNDER THIS 4 SECTION SHALL BE ALLOCATED IN ACCORDANCE WITH THIS CHAPTER. 5 SECTION 303. BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY. (A) ALLOCATION.--THE SUM OF \$40,000,000 SHALL BE TRANSFERRED 6 BY THE AUTHORITY TO THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT 7 8 AUTHORITY. FUNDS UNDER THIS SUBSECTION SHALL BE TRANSFERRED TO 9 THE BEN FRANKLIN TECHNOLOGY PARTNERS FOR ENERGY-RELATED 10 INVESTMENTS TO SUPPORT EARLY-STAGE ACTIVITIES, INCLUDING 11 INCUBATOR SUPPORT SERVICES, MANAGEMENT SUPPORT, TRANSLATIONAL RESEARCH, COMPANY INVESTMENT, EARLY-STAGE RESEARCH OF OTHER 12 13 PROGRAMS OR ADMINISTRATIVE ACTIVITIES TO DEVELOP AND IMPLEMENT 14 ALTERNATIVE ENERGY TECHNOLOGIES AND ENERGY EFFICIENCY 15 TECHNOLOGIES. FUNDS ALLOCATED UNDER THIS PARAGRAPH SHALL BE 16 DISTRIBUTED EQUALLY AMONG THE BEN FRANKLIN TECHNOLOGY PARTNERS. 17 (B) GUIDELINES. -- FUNDS ALLOCATED UNDER THIS SECTION SHALL BE 18 USED IN ACCORDANCE WITH GUIDELINES OF THE BEN FRANKLIN 19 TECHNOLOGY DEVELOPMENT AUTHORITY BOARD. THE GUIDELINES SHALL 20 SEEK TO ENSURE THAT MINORITY-OWNED, WOMEN-OWNED AND OTHER 21 DISADVANTAGED BUSINESSES HAVE THE OPPORTUNITY TO SUBSTANTIALLY 22 PARTICIPATE IN FUNDING ACTIVITIES UNDERTAKEN PURSUANT TO THIS 23 SECTION. THE GUIDELINES SHALL BE POSTED ON ITS OFFICIAL INTERNET 24 WEBSITE.

(C) APPLICATION.--AN APPLICANT FOR FUNDS UNDER THIS SECTION
SHALL SUBMIT AN APPLICATION INCLUDING ANY SUPPORTING INFORMATION
AS REQUIRED BY THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT
AUTHORITY.

29 (D) ADMINISTRATIVE COSTS.--NO MORE THAN 1% OF FUNDS 30 ALLOCATED TO THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY 20071H0001B0086 - 39 - 1 SHALL BE USED FOR ADMINISTRATIVE COSTS.

2 (E) REPORTING.--BY APRIL 1 OF EACH YEAR, THE BEN FRANKLIN 3 TECHNOLOGY DEVELOPMENT AUTHORITY SHALL PROVIDE AN ANNUAL REPORT 4 TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS 5 COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. 6 7 THE REPORT SHALL BE POSTED AND MAINTAINED ON ITS OFFICIAL 8 INTERNET WEBSITE. THE REPORT SHALL INCLUDE A LIST OF ALL FUNDS 9 DISTRIBUTED UNDER SUBSECTION (A), THE RECIPIENTS OF THE FUNDS, 10 THE TECHNOLOGY TO BE DEVELOPED, A DESCRIPTION OF HOW THE 11 INVESTMENTS OF THE PARTNERS THROUGH THIS PROGRAM WILL ACHIEVE 12 THE GOALS OF THIS ACT, INCLUDING SAVING ENERGY, IN THIS 13 COMMONWEALTH AND OTHER DETAILS RELATING TO THE PROJECT. SECTION 304. POLLUTION CONTROL TECHNOLOGY PROJECTS. 14

15 (A) ALLOCATION. -- THE SUM OF \$25,000,000 SHALL BE TRANSFERRED 16 BY THE AUTHORITY TO THE DEPARTMENT FOR POLLUTION CONTROL 17 TECHNOLOGY PROJECTS. THE FUNDS SHALL BE UTILIZED FOR GRANTS TO 18 ELECTRIC GENERATING UNITS OR COGENERATION UNITS, AS DEFINED 19 UNDER 25 PA. CODE § 123.202 (RELATING TO DEFINITIONS), THAT 20 UTILIZE COAL, AS DEFINED UNDER 25 PA. CODE § 123.202, AS THEIR 21 PRIMARY FUEL SOURCE, AND THAT HAVE AN INSTALLED CAPACITY OF LESS 22 THAN 500 MEGAWATTS, LOCATED IN THIS COMMONWEALTH.

23 (B) DISTRIBUTION.--EACH ELECTRIC GENERATING UNIT OR 24 COGENERATION UNIT SHALL BE ELIGIBLE TO RECEIVE A PRO RATA SHARE 25 OF MONEYS ALLOCATED FOR POLLUTION CONTROL TECHNOLOGY PROJECTS 26 BASED ON CRITERIA DEVELOPED BY THE DEPARTMENT. THE DEPARTMENT 27 SHALL PUBLISH THE CRITERIA TO BE USED IN THE PENNSYLVANIA 28 BULLETIN AND ON ITS INTERNET WEBSITE AND SHALL SUBMIT THE 29 CRITERIA TO THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF 30 THE SENATE AND THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE 20071H0001B0086 - 40 -

OF THE HOUSE OF REPRESENTATIVES FOR COMMENT AND REVIEW 60 DAYS
 PRIOR TO ACCEPTING A GRANT APPLICATION UNDER THIS SECTION.
 SECTION 305. EMERGENCY ENERGY ASSISTANCE FUND.

4 (A) DEPOSIT.--FOR FISCAL YEARS 2008-2009 THROUGH 2011-2012,
5 THE SUM OF \$10,000,000 SHALL BE ANNUALLY TRANSFERRED BY THE
6 AUTHORITY TO THE DEPARTMENT OF PUBLIC WELFARE FOR DEPOSIT INTO
7 THE EMERGENCY ENERGY ASSISTANCE FUND.

8 (B) ADMINISTRATION.--FUNDS DEPOSITED UNDER THIS SECTION
9 SHALL BE ADMINISTERED BY THE DEPARTMENT OF PUBLIC WELFARE FOR
10 STATE-FUNDED EMERGENCY ENERGY ASSISTANCE WHEN ALL OF THE
11 FOLLOWING OCCUR:

12 (1) THE GOVERNOR ISSUES A DECLARATION THAT EITHER
13 WEATHER CONDITIONS, NATURAL OR MAN-MADE DISASTERS, OR HIGH
14 ENERGY PRICES OR A COMBINATION THEREOF ARE A THREAT TO PUBLIC
15 HEALTH WITHIN THIS COMMONWEALTH AND AVAILABLE FEDERAL HOME
16 ENERGY ASSISTANCE FUNDS ARE NOT SUFFICIENT TO MEET THIS NEED.

17 (2) THE GOVERNOR HAS THE EMERGENCY DECLARATION ISSUED 18 UNDER PARAGRAPH (1) PUBLISHED IN THE PENNSYLVANIA BULLETIN 19 ALONG WITH THE CRITERIA AND EMERGENCY REGULATIONS FOR THE 20 EMERGENCY ENERGY ASSISTANCE PROGRAM AND TRANSMITS COPIES OF 21 THE DECLARATION TO THE CHAIR AND MINORITY CHAIR OF THE 22 APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIR AND 23 MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE 24 OF REPRESENTATIVES.

SECTION 306. CONSUMER AND SMALL BUSINESS SOLAR ENERGY PROJECTS.
(A) ALLOCATION.--THE SUM OF \$100,000,000 SHALL BE
TRANSFERRED BY THE AUTHORITY TO THE DEPARTMENT TO PROVIDE A
LOAN, GRANT, REIMBURSEMENT OR REBATE TO INDIVIDUALS RESIDING IN
AN OWNER-OCCUPIED DWELLING OR TO SMALL BUSINESSES FOR SOLAR
ENERGY PROJECTS WITHIN THIS COMMONWEALTH.

- 41 -

20071H0001B0086

1 (B) AMOUNTS.--THE AMOUNT OF THE LOAN, GRANT, REIMBURSEMENT 2 OR REBATE SHALL NOT EXCEED 35% OF THE PURCHASE AND INSTALLATION 3 PRICE OF THE SOLAR OR SOLAR-PHOTOVOLTAIC ENERGY SYSTEM. THE 4 DEPARTMENT SHALL ADOPT GUIDELINES ESTABLISHING THE NUMBER OF 5 KILOWATTS OF INSTALLED CAPACITY NECESSARY FOR AN INDIVIDUAL OR A 6 SMALL BUSINESS TO QUALIFY TO RECEIVE A LOAN, GRANT,

7 REIMBURSEMENT OR REBATE.

8 SECTION 307. COMMONWEALTH FINANCING AUTHORITY.

9 (A) PROJECTS.--

10 (1) THE SUM OF \$165,000,000 FROM FUNDS AVAILABLE TO THE
 11 AUTHORITY UNDER SECTION 302(A) SHALL BE ALLOCATED BY THE
 12 AUTHORITY FOR GRANTS OR LOANS FOR THE FOLLOWING PROGRAMS:

13 (I) LOANS TO BUSINESSES OR NONPROFIT ECONOMIC
 14 DEVELOPMENT ORGANIZATIONS FOR CLEAN ENERGY PROJECTS.

15 (II) LOANS OR GRANTS TO POLITICAL SUBDIVISIONS FOR
16 CLEAN ENERGY PROJECTS.

17 (III) LOANS AND GRANTS TO BUSINESSES OR NONPROFIT
 18 ECONOMIC DEVELOPMENT ORGANIZATIONS FOR ALTERNATIVE ENERGY
 19 PRODUCTION PROJECTS.

20(IV)LOANS AND GRANTS TO BUSINESSES, NONPROFIT21ECONOMIC DEVELOPMENT ORGANIZATIONS OR POLITICAL

22 SUBDIVISIONS FOR SITE PREPARATION.

23 (2) A SOLAR ENERGY PROJECT, INCLUDING SOLAR THERMAL
24 EQUIPMENT, SHALL NOT BE ELIGIBLE FOR A LOAN OR GRANT UNDER
25 THIS SUBSECTION.

(B) RENEWABLES.--THE SUM OF \$25,000,000 SHALL BE ALLOCATED
 BY THE AUTHORITY FOR LOANS OR GRANTS TO PROJECTS RELATED TO
 GEOTHERMAL TECHNOLOGIES, INCLUDING GEOTHERMAL HEAT PUMP SYSTEMS
 THAT USE THE GROUND, GROUND WATER AND UNDERGROUND MINE WATER AS
 A THERMAL ENERGY SOURCE, OR WIND ENERGY PROJECTS, INCLUDING
 20071H0001B0086 - 42 -

MANUFACTURING FACILITIES FOR WIND TURBINES AND OTHER ENERGY
 COMPONENTS.

Z COMPONENTS.

3 (C) HIGH PERFORMANCE BUILDINGS.--

4 (1) THE SUM OF \$25,000,000 SHALL BE ALLOCATED BY THE
5 AUTHORITY FOR LOANS OR GRANTS TO ONE OF THE FOLLOWING TO MEET
6 ENERGY EFFICIENT STANDARDS UNDER PARAGRAPH (2):

7 (I) A SMALL BUSINESS FOR THE CONSTRUCTION OR
8 RENOVATION OF A BUILDING FOR THE USE OF THE SMALL
9 BUSINESS.

(II) AN INDIVIDUAL FOR THE CONSTRUCTION OR
 RENOVATION OF A DWELLING IF THE INDIVIDUAL DOES OR WILL
 OCCUPY THE DWELLING AS HIS PRIMARY RESIDENCE.

13 (2) THE DEPARTMENT OF GENERAL SERVICES SHALL ADOPT
14 STANDARDS FOR THE CERTIFICATION OF A HIGH PERFORMANCE
15 BUILDING UNDER THIS ACT, TO INCLUDE THE FOLLOWING:

16 (I) ESTABLISHING HIGH PERFORMANCE, NATIONALLY
 17 RECOGNIZED CATEGORIES TO ACHIEVE THE FOLLOWING:

18 (A) OPTIMIZE THE ENERGY PERFORMANCE OF19 BUILDINGS.

20 (B) INCREASE THE USE OF AND DEMAND FOR
21 ENVIRONMENTALLY PREFERABLE BUILDING MATERIALS,
22 FURNISHINGS AND FINISHES.

23 (C) IMPROVE ENVIRONMENTAL QUALITY AND CONSERVE24 NATURAL RESOURCES IN THIS COMMONWEALTH.

(D) SELECT APPROPRIATE SITES.

26 (E) REDUCE POLLUTANTS AND WASTE GENERATION.
27 (F) OTHER CRITERIA AS REQUIRED BY THE DEPARTMENT
28 OF GENERAL SERVICES.

29 (II) REQUIRE DOCUMENTATION TO SUBSTANTIATE
30 COMPLIANCE WITH THE GUIDELINES.

20071H0001B0086

25

- 43 -

(III) REQUIRE THIRD-PARTY, POSTCONSTRUCTION REVIEW
 AND VERIFICATION.

3 (D) OTHER SOLAR PROJECTS.--THE SUM OF \$80,000,000 SHALL BE
4 ALLOCATED BY THE AUTHORITY FOR GRANTS AND LOANS FOR ALTERNATIVE
5 ENERGY PRODUCTION PROJECTS RELATED TO SOLAR ENERGY.

6 (E) ELIGIBILITY.--IN ORDER TO BE ELIGIBLE TO RECEIVE FUNDS
7 UNDER THIS SECTION, AN APPLICANT MUST PROVIDE THE AUTHORITY WITH
8 THE FOLLOWING:

9 (1) A DETAILED DESCRIPTION OF THE PROJECT, INCLUDING THE 10 PROPOSED USE OF FUNDS AND AN EXPLANATION OF HOW THE PROJECT 11 WILL FULFILL THE GOALS OF THIS ACT.

12 (2) IDENTIFICATION OF THE NUMBER OF CURRENT EMPLOYEES13 AND AN ESTIMATE OF ANY FUTURE EMPLOYMENT OPPORTUNITIES.

14

(3) THE COST OF THE PROJECT.

15 (4) A DESCRIPTION OF HOW THE PROJECT WILL REDUCE THE
16 COMMONWEALTH'S RELIANCE ON NONRENEWABLE ENERGY.

17 (5) ANY OTHER INFORMATION REQUIRED BY THE AUTHORITY.
18 (F) ELIGIBILITY OF ALTERNATIVE ENERGY PRODUCTION PROJECT.-19 IN ORDER TO BE ELIGIBLE FOR FUNDING UNDER THIS CHAPTER, AN
20 ALTERNATIVE ENERGY PRODUCTION PROJECT SHALL HAVE A USEFUL LIFE
21 OF AT LEAST FOUR YEARS AND SHALL BE LOCATED IN THIS
22 COMMONWEALTH.

23 (G) LIMITATION.--A GRANT OR LOAN FOR A PROJECT UNDER THIS24 SECTION SHALL NOT EXCEED \$30,000,000.

(H) PROJECT REVIEW.--THE AUTHORITY SHALL REVIEW AND PREPARE
AN ASSESSMENT OF EACH APPLICATION AND DETERMINE WHICH PROJECTS
WILL BEST UTILIZE AND PROMOTE THE USE OF ALTERNATIVE ENERGY AND
PROMOTE ENERGY CONSERVATION IN THIS COMMONWEALTH. PROJECTS SHALL
BE AWARDED IN ACCORDANCE WITH 64 PA.C.S. § 1512 (RELATING TO
BOARD). THE DEPARTMENT OR THE DEPARTMENT OF COMMUNITY AND
20071H0001B0086 - 44 -

ECONOMIC DEVELOPMENT SHALL PROVIDE TECHNICAL ASSISTANCE AS
 APPROPRIATE.

3 (I) REPORTING.--THE AUTHORITY SHALL PROVIDE AN ANNUAL REPORT
4 TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS
5 COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN
6 OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES
7 BY OCTOBER 1, 2009, AND OCTOBER 1 OF EACH YEAR THEREAFTER. THE
8 REPORT SHALL BE POSTED AND MAINTAINED ON THE AUTHORITY'S
9 OFFICIAL INTERNET WEBSITE AND SHALL INCLUDE:

10 (1) A LIST OF ALL LOANS AND GRANTS APPROVED AND LOANS
11 REPAID DURING THE PREVIOUS FISCAL YEAR, INCLUDING THE NAME
12 AND ADDRESS OF EACH RECIPIENT, THE AMOUNT OF THE LOAN OR
13 GRANT AND A DETAILED DESCRIPTION OF EACH APPROVED PROJECT.

14 (2) THE ESTIMATED ENERGY BENEFITS TO DATE FOR ALL
15 PROJECTS RECEIVING FUNDING DURING THAT FISCAL YEAR, INCLUDING
16 AN EXPLANATION OF THE METHOD USED TO ARRIVE AT THE ESTIMATED
17 SAVINGS.

18 (3) RECOMMENDATIONS REGARDING ANY POTENTIAL AMENDMENTS
19 TO THIS ACT TO INCLUDE NEW ENERGY TECHNOLOGIES THAT PROVIDE
20 ALTERNATIVE ENERGY SOURCES THAT ENCOURAGE OR PROMOTE ENERGY
21 INDEPENDENCE.

22 (4) A DESCRIPTION OF HOW THE PROGRAM WILL SAVE ENERGY IN23 THIS COMMONWEALTH.

(J) ADMINISTRATIVE ASSISTANCE.--THE DEPARTMENT OF COMMUNITY
 AND ECONOMIC DEVELOPMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT TO
 THE AUTHORITY.

27 (K) ADMINISTRATIVE COSTS. -- NO MORE THAN 1% OF FUNDS
28 ALLOCATED UNDER THIS SECTION SHALL BE USED BY THE AUTHORITY FOR
29 ADMINISTRATIVE COSTS.

30

CHAPTER 5

20071H0001B0086

- 45 -

2 SECTION 501. PROGRAM.

3 THERE IS ESTABLISHED IN THE DEPARTMENT A CONSUMER ENERGY
4 PROGRAM TO PROVIDE LOANS, GRANTS, REIMBURSEMENTS AND REBATES TO
5 INDIVIDUALS AND SMALL BUSINESSES IN ACCORDANCE WITH THIS
6 CHAPTER.

7 SECTION 502. APPROPRIATION.

FOLLOWING THE EXPIRATION OF ONE OR MORE GENERATION RATE CAPS
9 ESTABLISHED IN AN ELECTRIC UTILITY RESTRUCTURING PROCEEDING
10 UNDER 66 PA.C.S. § 2804(4) (RELATING TO STANDARDS FOR
11 RESTRUCTURING OF ELECTRIC INDUSTRY), THE FOLLOWING SUMS SHALL BE
12 APPROPRIATED ANNUALLY FROM THE GENERAL FUND TO THE DEPARTMENT
13 FOR ALLOCATION UNDER SECTION 503:

14 (1) FOR FISCAL YEARS 2008-2009 THROUGH 2011-2012,
15 \$15,000,000.

16 (2) FOR FISCAL YEAR 2012-2013, \$12,000,000.

17 (3) FOR FISCAL YEARS 2013-2014 AND 2014-2015,

18 \$10,000,000.

19 (4) FOR FISCAL YEAR 2015-2016, \$8,000,000.

20 SECTION 503. ALLOCATION.

21 MONEY APPROPRIATED UNDER SECTION 502 SHALL BE USED BY THE 22 DEPARTMENT FOR THE CONSUMER ENERGY PROGRAM AS FOLLOWS:

23 (1) THE SUM OF \$92,500,000 SHALL BE USED FOR LOANS, 24 GRANTS, REIMBURSEMENTS OR REBATES FROM FUNDS AVAILABLE UNDER 25 SECTION 502 TO INDIVIDUALS RESIDING IN OWNER-OCCUPIED 26 DWELLINGS OR TO SMALL BUSINESSES FOR THE PURCHASE AND 27 INSTALLATION PRICE OF CONSUMER ENERGY CONSERVATION PROJECTS. 28 AN APPLICANT SHALL BE ELIGIBLE FOR UP TO 25% OF THE PURCHASE 29 AND INSTALLATION PRICE OF A CONSUMER ENERGY CONSERVATION 30 PROJECT. A SOLAR ENERGY PROJECT SHALL NOT BE ELIGIBLE FOR A 20071H0001B0086 - 46 -

1 LOAN OR GRANT UNDER THIS PARAGRAPH.

2 (2) IN FISCAL YEAR 2008-2009, THE SUM OF \$5,000,000
3 SHALL BE TRANSFERRED TO THE HOME ENERGY EFFICIENCY LOAN FUND
4 ESTABLISHED UNDER SECTION 605(A).

5 (3) THE SUM OF \$2,500,000 FROM FUNDS AVAILABLE UNDER
6 SECTION 502 SHALL BE USED FOR LOANS OR GRANTS TO INDIVIDUALS
7 OR SMALL BUSINESSES FOR THE PURCHASE AND INSTALLATION OF DATA
8 CENTER CONSOLIDATION PROJECTS.

9 SECTION 504. STANDARDS.

(A) CONSUMER ENERGY CONSERVATION PROJECTS.--THE DEPARTMENT
SHALL DEVELOP AND PUBLISH PERFORMANCE STANDARDS FOR CONSUMER
ENERGY CONSERVATION PROJECTS. IN ORDER TO BE ELIGIBLE FOR A
LOAN, GRANT, REIMBURSEMENT OR REBATE UNDER THIS CHAPTER, THE
PROJECT MUST COMPLY WITH THE APPROPRIATE STANDARD.

(B) PUBLICATION.--THE INFORMATION REQUIRED UNDER SUBSECTION
(A) SHALL BE POSTED AND MAINTAINED ON THE DEPARTMENT'S INTERNET
WEBSITE.

18 SECTION 505. GUIDELINES.

19 THE DEPARTMENT SHALL PUBLISH GUIDELINES IN THE PENNSYLVANIA
20 BULLETIN RELATING TO THE FOLLOWING:

21 (1) ELIGIBILITY OF APPLICANT.

22 (2) TYPES OF PRODUCTS AND CONSUMER ENERGY CONSERVATION
 23 PROJECTS ELIGIBLE UNDER THIS CHAPTER.

24 SECTION 506. REPORTING.

BY OCTOBER 1 OF EACH YEAR, THE DEPARTMENT SHALL PROVIDE A REPORT TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT SHALL INCLUDE: (1) PROGRAM GUIDELINES;

20071H0001B0086

- 47 -

(2) THE NUMBER AND CATEGORY OF LOANS, GRANTS,

2 REIMBURSEMENTS OR REBATES; AND

3 (3) A DESCRIPTION OF HOW THE PROGRAM WILL SAVE ENERGY IN
4 THIS COMMONWEALTH.

5 SECTION 509. ADMINISTRATIVE COSTS.

6 NO MORE THAN 1% OF THE FUNDS ALLOCATED TO THE DEPARTMENT7 UNDER THIS CHAPTER SHALL BE USED FOR ADMINISTRATIVE COSTS.

8

CHAPTER 6

9 HOME ENERGY EFFICIENCY LOAN PROGRAM

10 SECTION 601. SCOPE OF CHAPTER.

11 THIS CHAPTER RELATES TO THE HOME ENERGY EFFICIENCY LOAN 12 PROGRAM.

13 SECTION 602. DEFINITIONS.

14 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER 15 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE 16 CONTEXT CLEARLY INDICATES OTHERWISE:

17 "ADULT HOUSEHOLD MEMBER." ANY PERSON OVER THE AGE OF 18 WHO 18 RESIDES IN THE HOME AS A PRINCIPAL RESIDENCE AND WHO IS NOT A 19 FULL-TIME UNDERGRADUATE STUDENT.

20 "AGENCY." THE PENNSYLVANIA HOUSING FINANCE AGENCY.

21 "APPLICANT." A PERSON THAT SUBMITS AN APPLICATION FOR A LOW22 INTEREST RATE HOME ENERGY EFFICIENCY LOAN UNDER THIS CHAPTER.
23 "APPROVED CONTRACTOR." A CONTRACTOR APPROVED BY THE AGENCY
24 IN ACCORDANCE WITH THIS CHAPTER.

25 "CONTRACTOR." ANY PERSON WHO OWNS AND OPERATES AN ENERGY 26 EFFICIENCY SERVICE-RELATED BUSINESS OR WHO UNDERTAKES, OFFERS TO 27 UNDERTAKE OR AGREES TO PERFORM ANY ENERGY EFFICIENCY PROJECT TO 28 BE FINANCED BY A LOAN ISSUED UNDER THIS CHAPTER.

29 "ENERGY EFFICIENCY PROJECT." THE PURCHASE OR INSTALLATION OF 30 ANY OF THE FOLLOWING:

20071H0001B0086

- 48 -

(1) AIR SEALING, INSULATION AND DUCT WORK.

2 (2) ENERGY EFFICIENT WINDOWS AND DOORS.

3 (3) ENERGY EFFICIENT HEATING OR COOLING SYSTEMS OR
4 REPAIRS.

5 (4) ROOFING REPAIR, REPLACEMENT OR IMPROVEMENTS.
6 "FULL-TIME UNDERGRADUATE STUDENT." AN INDIVIDUAL ENROLLED
7 FOR AT LEAST 12 CREDIT HOURS PER SEMESTER AT AN INSTITUTION OF
8 HIGHER EDUCATION.

9 "FUND." THE HOME ENERGY EFFICIENCY LOAN FUND ESTABLISHED 10 UNDER SECTION 605.

11 "HOME ENERGY EFFICIENCY LOAN." A LOW-INTEREST RATE LOAN
12 AWARDED UNDER THIS CHAPTER.

13 SECTION 603. HOME ENERGY EFFICIENCY LOAN PROGRAM.

14 (A) ESTABLISHMENT.--THERE IS ESTABLISHED A HOME ENERGY
15 EFFICIENCY LOAN PROGRAM WHICH SHALL BE ADMINISTERED BY THE
16 AGENCY. THE PROGRAM SHALL PROVIDE LOANS TO ELIGIBLE HOUSEHOLDS
17 FOR ENERGY EFFICIENCY PROJECTS.

(B) HOUSEHOLD ELIGIBILITY.--DWELLING UNITS THAT ARE OWNEROCCUPIED AND HAVE AN ADJUSTED GROSS INCOME, AS DETERMINED BY THE
MOST CURRENT FEDERAL TAX RETURNS OF ALL ADULT HOUSEHOLD MEMBERS,
THAT DOES NOT EXCEED 150% OF THE GREATER OF THE CURRENT
STATEWIDE OR AREA MEDIAN INCOME (AMI) AS ESTABLISHED BY THE
FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE
COUNTY IN WHICH THE HOME IS LOCATED.

25 (C) APPLICATIONS.--AN INDIVIDUAL MAY SUBMIT AN APPLICATION 26 TO THE AGENCY REQUESTING A LOAN. THE APPLICATION SHALL BE ON THE 27 FORM REQUIRED BY THE AGENCY AND SHALL INCLUDE OR DEMONSTRATE ALL 28 OF THE FOLLOWING:

29 (1) THE APPLICANT'S NAME AND ADDRESS.

30 (2) THE IDENTITY OF THE APPROVED CONTRACTOR WHO WILL 20071H0001B0086 - 49 -

COMPLETE THE ENERGY EFFICIENCY PROJECT.

2 (3) A DESCRIPTION OF THE ENERGY EFFICIENCY PROJECT AND
3 AN ESTIMATE OF THE COST OF THE PROJECT, INCLUDING AN ITEMIZED
4 LIST OF PROJECT COSTS, PREPARED BY THE APPROVED CONTRACTOR
5 IDENTIFIED UNDER PARAGRAPH (2).

6

(4) THE AMOUNT OF THE LOAN SOUGHT.

7 (5) A STATEMENT AUTHORIZING THE AGENCY TO CONDUCT A
8 CREDIT HISTORY CHECK.

9 (6) ANY OTHER INFORMATION REQUIRED BY THE AGENCY.
10 (D) REVIEW OF PROJECT FINANCING APPLICATIONS.--THE AGENCY
11 SHALL REVIEW THE APPLICATION TO DETERMINE IF:

12 (1) THE PROJECT IS ELIGIBLE FOR FINANCING UNDER THIS13 PROGRAM.

14 (2) THE APPLICANT IS ELIGIBLE TO RECEIVE A LOAN UNDER15 THIS PROGRAM.

16 (3) THE VALUE OF THE PROPOSED COLLATERAL AND THE
17 FINANCIAL RESOURCES OF THE APPLICANT ARE SUFFICIENT TO REPAY
18 THE LOAN.

19 (4) THE STATEMENT OF THE ESTIMATED COST OF THE PROJECT20 IS ACCURATE AND REASONABLE.

21 (5) THE APPLICANT COMPLIED WITH ALL OTHER CRITERIA
22 ESTABLISHED BY THE AGENCY.

(E) APPROVAL OF LOAN APPLICATIONS.--ONCE THE APPLICATION IS
DEEMED COMPLETE, THE AGENCY MAY APPROVE THE APPLICATION. THE
AGENCY SHALL HAVE COMPLETE DISCRETION IN DETERMINING WHETHER A
PROPOSED ENERGY EFFICIENCY PROJECT IS ELIGIBLE FOR A LOAN.

27 (F) SECURITY.--ALL LOANS AWARDED UNDER THIS ACT SHALL BE
28 SECURED BY A LIEN ON THE PROPERTY FOR WHICH THE LOAN WAS
29 APPROVED AND OTHER SUFFICIENT COLLATERAL AS DETERMINED BY THE
30 AGENCY.

20071H0001B0086

1 (G) LIMITATIONS.--

2 (1) AN APPLICANT MAY NOT APPLY FOR A LOAN IN AN AMOUNT
3 LESS THAN \$1,000 NOR MORE THAN \$10,000.

4 (2) THE AGENCY SHALL NOT REQUIRE A LOAN TO BE REPAID IN
5 FULL WITHIN SIX MONTHS OF THE LOAN CLOSING DATE.

6 (3) THE INTEREST RATE SHALL BE A BELOW-MARKET, FIXED
7 INTEREST RATE, AS DETERMINED BY THE AGENCY.

8 (4) THE LOAN REPAYMENT PERIOD MAY NOT EXCEED TEN YEARS
9 WITH NO PREPAYMENT PENALTY.

10 SECTION 604. APPROVED CONTRACTORS.

11 (A) REGISTRATION REQUIRED.--NO CONTRACTOR MAY UNDERTAKE,
12 OFFER TO UNDERTAKE OR AGREE TO PERFORM ANY ENERGY EFFICIENCY
13 PROJECT TO BE FINANCED BY A LOAN ISSUED UNDER THIS PROGRAM
14 UNLESS THE CONTRACTOR IS APPROVED BY THE AGENCY.

15 (B) APPLICATION FOR ENROLLMENT.--A CONTRACTOR MAY APPLY TO 16 BECOME AN APPROVED CONTRACTOR BY FILING AN APPLICATION WITH THE 17 AGENCY. THE APPLICATION SHALL BE ON THE FORM PRESCRIBED BY THE 18 AGENCY AND SHALL INCLUDE OR DEMONSTRATE ALL OF THE FOLLOWING:

19 (1) FOR AN INDIVIDUAL APPLICANT, THE NAME, HOME ADDRESS,
20 HOME TELEPHONE NUMBER AND DRIVER'S LICENSE IDENTIFICATION
21 NUMBER OF THE APPLICANT OR AN IDENTIFICATION CARD ISSUED BY
22 THE DEPARTMENT OF TRANSPORTATION, AS WELL AS THE INDIVIDUAL'S
23 BUSINESS NAME, ADDRESS AND TELEPHONE NUMBER IF DIFFERENT, AND
24 ALL PRIOR BUSINESS NAMES AND ADDRESSES OF HOME IMPROVEMENT
25 BUSINESSES.

26 (2) FOR A PARTNERSHIP APPLICANT, THE NAME, HOME ADDRESS,
27 HOME TELEPHONE NUMBER AND DRIVER'S LICENSE IDENTIFICATION
28 NUMBER OF EACH PARTNER AS WELL AS THE PARTNERSHIP NAME,
29 ADDRESS AND TELEPHONE NUMBER.

30 (3) FOR A CORPORATION, LIMITED LIABILITY COMPANY OR 20071H0001B0086 - 51 - LIMITED PARTNERSHIP APPLICANT, THE NAME, HOME ADDRESS, HOME
 TELEPHONE NUMBER AND DRIVER'S LICENSE IDENTIFICATION NUMBER
 OF EACH OFFICER, EACH DIRECTOR OR EACH INDIVIDUAL HOLDING
 GREATER THAN A 5% STAKE IN THE BUSINESS, AS WELL AS THE
 ENTITY'S BUSINESS NAME, ADDRESS AND TELEPHONE NUMBER.

6 (4) FOR AN OUT-OF-STATE CORPORATION, LIMITED LIABILITY 7 COMPANY OR LIMITED PARTNERSHIP, THE NAME AND ADDRESS OF THE 8 ENTITY'S RESIDENT AGENT OR REGISTERED OFFICE PROVIDER WITHIN 9 THIS COMMONWEALTH AND ANY REGISTRATION NUMBER OR LICENSE 10 NUMBER ISSUED TO THE ENTITY BY ITS HOME STATE OR POLITICAL 11 SUBDIVISION OF THE OTHER STATE, IF APPLICABLE.

12 (5) FOR A JOINT VENTURE APPLICANT, THE NAME, ADDRESS AND
13 TELEPHONE NUMBER OF THE JOINT VENTURE, AS WELL AS THE NAME,
14 ADDRESS AND TELEPHONE NUMBER OF EACH PARTY TO THE JOINT
15 VENTURE. IF THE PARTIES TO A JOINT VENTURE INCLUDE BUSINESS
16 ENTITIES, THE INFORMATION REQUIRED FROM THE ENTITIES UNDER
17 THIS SUBSECTION SHALL ALSO BE PROVIDED.

18 (6) A COMPLETE DESCRIPTION OF THE NATURE OF THE
19 CONTRACTING BUSINESS OF THE APPLICANT, INCLUDING A STATEMENT
20 DEFINING THE SERVICE AREA OF THE BUSINESS.

21

(7) A STATEMENT WHETHER ANY OF THE FOLLOWING APPLY:

(I) THE INDIVIDUAL OR INDIVIDUALS MAKING
APPLICATION, EVEN IF DOING SO AS PART OF A BUSINESS
ENTITY APPLICATION, HAS EVER BEEN CONVICTED OF A CRIMINAL
OFFENSE RELATED TO A HOME IMPROVEMENT TRANSACTION, FRAUD,
THEFT, A CRIME OF DECEPTION OR A CRIME INVOLVING
FRAUDULENT BUSINESS PRACTICES.

(II) THE APPLICANT HAS EVER FILED A PETITION IN
 BANKRUPTCY OR, WITHIN THE LAST TEN YEARS, RECEIVED A
 FINAL CIVIL JUDGMENT ENTERED AGAINST THE APPLICANT OR
 20071H0001B0086 - 52 -

BUSINESSES IN WHICH THE APPLICANT HELD AN INTEREST THAT WAS RELATED TO A HOME IMPROVEMENT TRANSACTION.

3 (III) THE APPLICANT'S CERTIFICATE OR THE CERTIFICATE
4 OF A BUSINESS WITH WHICH THE PERSON MAKING APPLICATION
5 HELD AN INTEREST HAS EVER BEEN REVOKED OR SUSPENDED
6 PURSUANT TO AN ORDER ISSUED BY A COURT OF COMPETENT
7 JURISDICTION IN THIS COMMONWEALTH OR ANY OTHER STATE OR
8 POLITICAL SUBDIVISION THEREOF AND, IF SO, THE CURRENT
9 STATUS OF THE CERTIFICATE.

10 (8) WHETHER WITHIN THE LAST TEN YEARS THE APPLICANT HAS
11 BEEN SUSPENDED OR DEBARRED FROM PARTICIPATING IN ANY FEDERAL,
12 STATE OR LOCAL PROGRAM THROUGH WHICH PUBLIC FUNDING OR OTHER
13 ASSISTANCE IS PROVIDED TO CONSUMERS FOR HOME IMPROVEMENTS.

14 (9) PROOF OF LIABILITY INSURANCE COVERING PERSONAL
15 INJURY IN AN AMOUNT NOT LESS THAN \$50,000 AND INSURANCE
16 COVERING PROPERTY DAMAGE CAUSED BY THE WORK OF THE CONTRACTOR
17 IN AN AMOUNT NOT LESS THAN \$50,000.

18 (C) APPROVAL OF APPLICATION.--UPON BEING SATISFIED THAT ALL
19 REQUIREMENTS HAVE BEEN MET, THE AGENCY MAY APPROVE THE
20 APPLICATION AND, IF APPROVED, DESIGNATE THE APPLICANT AS AN
21 APPROVED CONTRACTOR. THE AGENCY SHALL NOT APPROVE AN APPLICATION
22 IF ANY OF THE FOLLOWING CONDITIONS EXIST:

23 (1) THE INDIVIDUAL OR INDIVIDUALS MAKING APPLICATION, 24 EVEN IF DOING SO AS PART OF A BUSINESS ENTITY APPLICATION, 25 HAS EVER BEEN CONVICTED OF A CRIMINAL OFFENSE RELATED TO A 26 HOME IMPROVEMENT TRANSACTION, FRAUD, THEFT, A CRIME OF 27 DECEPTION OR A CRIME INVOLVING FRAUDULENT BUSINESS PRACTICES. 28 (2) THE APPLICANT HAS EVER BEEN SUSPENDED OR DEBARRED 29 FROM PARTICIPATING IN ANY FEDERAL, STATE OR LOCAL PROGRAM 30 THROUGH WHICH PUBLIC FUNDING OR OTHER ASSISTANCE IS PROVIDED

20071H0001B0086

1

2

- 53 -

1 TO CONSUMERS FOR HOME IMPROVEMENTS.

2 SECTION 605. HOME ENERGY EFFICIENCY LOAN FUND.

3 (A) ESTABLISHMENT.--MONEY TRANSFERRED TO THE AGENCY UNDER
4 SECTION 503(2) SHALL BE DEPOSITED INTO A RESTRICTED RECEIPTS
5 ACCOUNT TO BE KNOWN AS THE HOME ENERGY EFFICIENCY LOAN FUND, AND
6 USED IN ASSOCIATION WITH LOANS AWARDED BY THE AGENCY UNDER THIS
7 PROGRAM.

8 (B) REVOLVING LOAN FUND.--PROCEEDS OF BONDS ISSUED TO FUND 9 THE LOANS AUTHORIZED UNDER THIS CHAPTER AND ANY MONEYS RECEIVED 10 AS LOAN REPAYMENTS, OR MONEYS OTHERWISE MADE AVAILABLE TO THE 11 FUND, SHALL BE DEPOSITED IN THE FUND AND MADE AVAILABLE FOR 12 ADDITIONAL LOANS. NO MORE THAN 1% OF THE FUNDS MAY BE USED FOR 13 REASONABLE ADMINISTRATIVE COSTS.

14 SECTION 606. ANNUAL REPORT.

15 (A) CONTENTS. -- ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE 16 AGENCY SHALL PREPARE A REPORT EVALUATING THE LOANS AWARDED UNDER 17 THIS CHAPTER DURING THE PREVIOUS FISCAL YEAR. THE REPORT SHALL 18 BE SUBMITTED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE 19 APPROPRIATIONS COMMITTEE OF THE SENATE AND THE CHAIRMAN AND 20 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE 21 OF REPRESENTATIVES AND INCLUDE THE FOLLOWING, LISTED BY COUNTY 22 WHERE APPROPRIATE:

23 (1) THE TOTAL NUMBER OF APPLICATIONS RECEIVED AND LOANS24 AWARDED.

(2) THE DATE OF APPROVAL OF EACH LOAN, INCLUDING THE
ORIGINAL PRINCIPAL BALANCE, THE INTEREST RATE AND THE
REPAYMENT PERIOD.

28 (3) A BRIEF DESCRIPTION OF THE ENERGY EFFICIENCY PROJECT
29 FOR WHICH THE LOAN WAS MADE.

30 (4) ANY RECOMMENDATION TO THE GENERAL ASSEMBLY FOR 20071H0001B0086 - 54 - 1 IMPROVEMENTS IN THE PROGRAM.

2 (5) ANY OTHER INFORMATION DEEMED BY THE AGENCY TO BE
3 RELEVANT OR NECESSARY TO COMPLETE A COMPREHENSIVE REVIEW OF
4 THE PROGRAM, PROVIDED THAT PERSONAL INFORMATION OF INDIVIDUAL
5 LOAN RECIPIENTS SHALL BE CONSIDERED CONFIDENTIAL AND NOT
6 SUBJECT TO DISCLOSURE.

7 (6) A DESCRIPTION OF THE ENERGY SAVINGS RESULTING FROM
8 THE PROJECT.

9 (B) REPORT POSTING.--THE AGENCY SHALL POST AND MAINTAIN THE 10 REPORT ON THE AGENCY'S INTERNET WEBSITE.

11 SECTION 607. AGENCY GUIDELINES.

12 THE AGENCY SHALL PROMULGATE GUIDELINES NECESSARY FOR THE 13 ADMINISTRATION AND ENFORCEMENT OF THIS ACT, WHICH SHALL BE 14 PUBLISHED BY THE AGENCY IN THE PENNSYLVANIA BULLETIN WITHIN 90 15 DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

16

CHAPTER 7

17 ALTERNATIVE ENERGY PRODUCTION TAX CREDIT PROGRAM18 SECTION 701. ESTABLISHMENT.

19 THERE IS ESTABLISHED THE ALTERNATIVE ENERGY PRODUCTION TAX 20 CREDIT PROGRAM.

21 SECTION 702. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
23 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "ALTERNATIVE ENERGY PRODUCTION TAX CREDIT." THE CREDIT 26 PROVIDED FOR UNDER THIS CHAPTER.

27 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED UNDER 28 SECTION 301(N.0) OF THE TAX REFORM CODE OF 1971, OR A 29 PENNSYLVANIA S CORPORATION AS DEFINED UNDER SECTION 301(N.1) OF 30 THE TAX REFORM CODE OF 1971.

20071H0001B0086

- 55 -

"QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
 UNDER ARTICLE III, IV OR VI OF THE TAX REFORM CODE OF 1971. THE
 TERM DOES NOT INCLUDE ANY TAX WITHHELD BY AN EMPLOYER FROM AN
 EMPLOYEE UNDER ARTICLE III OF THE TAX REFORM CODE OF 1971.

5 "TAXPAYER." AN ENTITY SUBJECT TO TAX UNDER ARTICLE III, IV6 OR VI OF THE TAX REFORM CODE OF 1971.

7 SECTION 703. ELIGIBLE APPLICANTS.

8 (A) GENERAL RULE.--A TAXPAYER WHO DEVELOPS OR CONSTRUCTS AN 9 ALTERNATIVE ENERGY PRODUCTION PROJECT LOCATED IN THIS 10 COMMONWEALTH WITH A USEFUL LIFE OF AT LEAST FOUR YEARS MAY APPLY 11 FOR AN ALTERNATIVE ENERGY PRODUCTION TAX CREDIT AS PROVIDED 12 UNDER THIS CHAPTER. BY SEPTEMBER 15, 2009, A TAXPAYER MUST 13 SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM PRESCRIBED BY 14 THE DEPARTMENT, SETTING FORTH THE AMOUNT OF THE INVESTMENT IN AN 15 ALTERNATIVE ENERGY PRODUCTION PROJECT THAT WAS MADE IN THE 16 TAXABLE YEAR THAT ENDED IN THE PRIOR CALENDAR YEAR.

17 (B) APPLICATION. -- AN APPLICATION SHALL BE DEVELOPED BY THE18 DEPARTMENT AND SHALL INCLUDE:

19 (1) TYPE AND LOCATION OF THE ALTERNATIVE ENERGY
 20 PRODUCTION PROJECT.

(2) TOTAL COST OF THE ALTERNATIVE ENERGY PRODUCTION
 PROJECT.

23 (3) ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE
24 DEPARTMENT.

25 SECTION 704. AWARD OF TAX CREDITS.

26 (A) QUALIFICATION.--A TAXPAYER THAT IS ELIGIBLE UNDER
 27 SECTION 703 SHALL RECEIVE AN ALTERNATIVE ENERGY PRODUCTION TAX
 28 CREDIT FOR THE TAXABLE YEAR IN AN AMOUNT EQUAL TO 15% OF THE
 29 TOTAL AMOUNT OF ALL DEVELOPMENT, EQUIPMENT AND CONSTRUCTION
 30 COSTS PAID FOR ALTERNATIVE ENERGY PRODUCTION PROJECTS, NOT TO
 20071H0001B0086 - 56 -

EXCEED \$1,000,000 FOR EACH TAXPAYER, IN THE TAXABLE YEAR TO BE
 APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX LIABILITY.

3 (B) CALCULATION.--IN CALCULATING THE TOTAL AMOUNT OF ALL
4 DEVELOPMENT, EQUIPMENT AND CONSTRUCTION COSTS PAID FOR
5 ALTERNATIVE ENERGY PRODUCTION PROJECTS, THE TAXPAYER SHALL
6 DEDUCT THE AMOUNT OF ANY GRANT OR OTHER SUBSIDY RECEIVED IN
7 RELATION TO THE ALTERNATIVE ENERGY PRODUCTION PROJECT FOR WHICH
8 THE CREDIT IS SOUGHT BY THE TAXPAYER FROM A FEDERAL, STATE OR
9 LOCAL GOVERNMENT ENTITY, INCLUDING AN AUTHORITY.

10 (C) NOTIFICATION OF APPLICANT.--THE DEPARTMENT SHALL WITHIN
11 90 DAYS OF RECEIPT REVIEW EACH APPLICATION AND NOTIFY THE
12 APPLICANT WHETHER OR NOT THE APPLICANT IS APPROVED FOR A TAX
13 CREDIT.

14 (D) NOTIFICATION OF DEPARTMENT OF REVENUE.--UPON
15 DETERMINATION BY THE DEPARTMENT THAT AN APPROVED APPLICANT HAS
16 INCURRED COSTS FOR AN ALTERNATIVE ENERGY PRODUCTION PROJECT, THE
17 DEPARTMENT OF REVENUE SHALL ISSUE TO AN APPLICANT A TAX
18 CERTIFICATE THAT SETS FORTH THE AMOUNT OF ALTERNATIVE ENERGY
19 PRODUCTION TAX CREDIT APPROVED FOR THE ELIGIBLE APPLICANT.
20 SECTION 705. CARRYOVER, REFUND, ASSIGNMENT AND CARRYBACK OF

21

CREDIT.

22 (A) CARRYOVER.--IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT 23 OF THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT FOR THE TAXABLE 24 YEAR IN WHICH THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT IS 25 FIRST APPROVED, THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING 26 TAXABLE YEARS AND USED AS A CREDIT AGAINST THE QUALIFIED TAX 27 LIABILITY OF THE TAXPAYER FOR THOSE TAXABLE YEARS. EACH TIME 28 THAT THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT IS CARRIED 29 OVER TO A SUCCEEDING TAXABLE YEAR, IT IS TO BE REDUCED BY THE 30 AMOUNT THAT WAS USED AS A CREDIT DURING THE IMMEDIATELY 20071H0001B0086 - 57 -

PRECEDING TAXABLE YEAR. THE ALTERNATIVE ENERGY PRODUCTION TAX
 CREDIT PROVIDED UNDER THIS CHAPTER 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.

6 (B) APPLICATION.--AN ALTERNATIVE ENERGY PRODUCTION TAX 7 CREDIT APPROVED BY THE DEPARTMENT IN A TAXABLE YEAR FIRST SHALL 8 BE APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX LIABILITY FOR 9 THE CURRENT TAXABLE YEAR AS OF THE DATE ON WHICH THE CREDIT WAS 10 APPROVED BEFORE THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT IS 11 APPLIED AGAINST ANY TAX LIABILITY UNDER SUBSECTION (A).

12 (C) CARRYBACK AND REFUND. -- A TAXPAYER IS NOT ENTITLED TO
13 CARRY BACK OR OBTAIN A REFUND OF AN UNUSED ALTERNATIVE ENERGY
14 PRODUCTION TAX CREDIT.

15 (D) SALE OR ASSIGNMENT.--

16 (1) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE 17 DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN PART, AN 18 ALTERNATIVE ENERGY PRODUCTION PROJECT TAX CREDIT GRANTED TO 19 THE TAXPAYER UNDER THIS CHAPTER IF NO CLAIM FOR ALLOWANCE OF 20 THE CREDIT IS FILED WITHIN ONE YEAR FROM THE DATE THE CREDIT 21 IS APPROVED BY THE DEPARTMENT AND THE DEPARTMENT OF REVENUE 22 UNDER THIS ACT. THE DEPARTMENT, IN CONSULTATION WITH THE 23 DEPARTMENT OF REVENUE, SHALL ESTABLISH GUIDELINES FOR THE 24 APPROVAL OF APPLICATIONS UNDER THIS SUBSECTION.

(2) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF
REVENUE MUST MAKE A FINDING THAT THE APPLICANT HAS FILED ALL
REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE
TAXABLE YEARS AND PAID ANY BALANCE OF STATE TAX DUE.

29 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE 30 DEPARTMENT OF REVENUE SHALL ASSESS THE TAX OF AN APPLICANT 20071H0001B0086 - 58 - UNDER THIS SUBSECTION WITHIN 120 DAYS OF THE FILING OF ALL
 REQUIRED FINAL RETURNS OR REPORTS IN ACCORDANCE WITH SECTION
 806.1(A)(5) OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176),
 KNOWN AS THE FISCAL CODE.

5 (E) PURCHASERS AND ASSIGNEES.--THE PURCHASER OR ASSIGNEE OF ALL OR A PORTION OF A TAX CREDIT UNDER SUBSECTION (D) SHALL 6 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE 7 8 PURCHASE OR ASSIGNMENT IS MADE. THE AMOUNT OF THE TAX CREDIT 9 THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE OUALIFIED 10 TAX LIABILITY MAY NOT EXCEED 50% OF SUCH QUALIFIED TAX LIABILITY 11 FOR THE TAXABLE YEAR. THE PURCHASER OR ASSIGNEE MAY NOT CARRY FORWARD, CARRY BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE 12 13 TAX CREDIT.

14 SECTION 706. LIMITATION ON TAX CREDITS.

15 (A) TOTAL.--THE TOTAL AMOUNT OF CREDITS APPROVED BY THE16 DEPARTMENT SHALL NOT EXCEED:

17 (1) \$5,000,000 IN FISCAL YEARS 2008-2009 THROUGH 201118 2012.

19 (2) \$8,000,000 IN FISCAL YEAR 2012-2013.

20 (3) \$10,000,000 IN FISCAL YEARS 2013-2014 THROUGH 2014-21 2015.

22

(4) \$2,000,000 IN FISCAL YEAR 2015-2016.

23 (B) FORMULA.--IF THE TOTAL AMOUNT OF ALTERNATIVE ENERGY 24 PRODUCTION TAX CREDITS APPROVED FOR ALL TAXPAYERS EXCEEDS THE 25 AMOUNT ALLOCATED FOR THOSE CREDITS, THEN THE ALTERNATIVE ENERGY 26 PRODUCTION TAX CREDIT TO BE RECEIVED BY EACH APPLICANT SHALL BE 27 THE PRODUCT OF THE ALLOCATED AMOUNT MULTIPLIED BY THE QUOTIENT 28 OF THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT APPROVED FOR THE 29 APPLICANT DIVIDED BY THE TOTAL OF ALL ALTERNATIVE ENERGY 30 PRODUCTION TAX CREDITS APPROVED FOR ALL APPLICANTS, THE - 59 -20071H0001B0086

1 ALGEBRAIC EQUIVALENT OF WHICH IS:

TAXPAYER'S ALTERNATIVE ENERGY PRODUCTION TAX CREDIT =
AMOUNT ALLOCATED FOR THOSE CREDITS X (ALTERNATIVE ENERGY
PRODUCTION TAX CREDIT APPROVED FOR THE APPLICANT/TOTAL OF
ALL ALTERNATIVE ENERGY PRODUCTION TAX CREDITS APPROVED
FOR ALL APPLICANTS).

7 SECTION 707. PASS-THROUGH ENTITY.

8 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED 9 TAX CREDIT UNDER SECTION 705, THE ENTITY MAY ELECT, IN WRITING, 10 ACCORDING TO THE DEPARTMENT'S PROCEDURES, TO TRANSFER ALL OR A 11 PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS IN 12 PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME TO 13 WHICH THE SHAREHOLDER, MEMBER OR PARTNER IS ENTITLED.

(B) ADDITIONAL CREDIT AND LIMITATION.--THE CREDIT PROVIDED
UNDER SUBSECTION (A) IS IN ADDITION TO ANY ALTERNATIVE ENERGY
PRODUCTION TAX CREDIT TO WHICH A SHAREHOLDER, MEMBER OR PARTNER
OF A PASS-THROUGH ENTITY IS OTHERWISE ENTITLED UNDER THIS
CHAPTER. A PASS-THROUGH ENTITY AND A SHAREHOLDER, MEMBER OR
PARTNER OF A PASS-THROUGH ENTITY MAY NOT CLAIM A CREDIT UNDER
THIS CHAPTER FOR THE SAME ALTERNATIVE ENERGY PRODUCTION
INVESTMENT.

(C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
PASS-THROUGH ENTITY TO WHOM CREDIT IS TRANSFERRED UNDER
SUBSECTION (A) MUST IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR
SELL OR ASSIGN THE CREDIT.

28 SECTION 708. REPORTING.

29 (A) GENERAL RULE. -- NO LATER THAN SEPTEMBER 1 OF EACH YEAR,
30 THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF REVENUE,
20071H0001B0086 - 60 -

SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY SUMMARIZING THE 1 EFFECTIVENESS OF THE TAX CREDIT PROVIDED UNDER THIS CHAPTER. THE 2 3 REPORT SHALL INCLUDE THE NAME OF EACH TAXPAYER UTILIZING THE 4 CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT OF CREDITS 5 APPROVED FOR OR UTILIZED BY EACH TAXPAYER. THE REPORT MAY ALSO INCLUDE RECOMMENDATION FOR CHANGES IN THE CALCULATION OR 6 ADMINISTRATION OF THE TAX CREDIT. THE REPORT SHALL BE SUBMITTED 7 8 TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS 9 COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY CHAIRMAN OF 10 THE FINANCE COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY 11 CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE 12 13 FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT 14 SHALL INCLUDE THE FOLLOWING INFORMATION, WHICH SHALL BE 15 SEPARATED BY GEOGRAPHIC LOCATION WITHIN THIS COMMONWEALTH:

16 (1) THE AMOUNT OF CREDITS CLAIMED DURING THE FISCAL 17 YEAR.

18 (2) THE NUMBER OF ALTERNATIVE ENERGY PRODUCTION PROJECTS
19 RECEIVING A TAX CREDIT AND THE DOLLAR AMOUNT OF TAX CREDITS
20 GRANTED UNDER THIS CHAPTER IN THE AGGREGATE AND BY PROJECT.

(3) THE TYPES, LOCATIONS AND COSTS OF PROJECTS.

(4) THE TOTAL AMOUNT SPENT IN THIS COMMONWEALTH DURING
THE FISCAL YEAR BY EACH ALTERNATIVE ENERGY PRODUCTION
PROJECT.

25 (5) THE ESTIMATED BENEFITS OF THE PROJECTS IN CREATING
 26 ALTERNATIVE ENERGY.

27 (6) THE TOTAL AMOUNT OF TAX REVENUES GENERATED IN THIS28 COMMONWEALTH FROM ALTERNATIVE ENERGY PRODUCTION PROJECTS.

29 (7) THE TOTAL NUMBER OF JOBS CREATED DURING THE FISCAL
30 YEAR BY ALTERNATIVE ENERGY PRODUCTION PROJECTS.

20071H0001B0086

21

- 61 -

(B) PUBLIC INFORMATION. -- NOTWITHSTANDING ANY LAW PROVIDING
 FOR CONFIDENTIALITY OF TAX RECORDS, THE FOLLOWING SHALL BE
 PUBLIC INFORMATION:

4 (1) INFORMATION IN THE REPORT UNDER SUBSECTION (A) WHICH
5 SHALL BE POSTED ON THE INTERNET WEBSITES OF THE DEPARTMENT OF
6 REVENUE AND THE DEPARTMENT.

7 (2) THE IDENTITY OF EACH TAXPAYER UTILIZING A TAX CREDIT
8 UNDER THIS CHAPTER AND THE AMOUNT OF CREDITS APPROVED AND
9 UTILIZED BY EACH TAXPAYER WHICH SHALL BE MADE AVAILABLE
10 ANNUALLY, BEGINNING NO LATER THAN ONE YEAR AFTER THE CREDITS
11 WERE GRANTED.

12 SECTION 709. TERMINATION.

13 THE DEPARTMENT SHALL NOT APPROVE AN ALTERNATIVE ENERGY 14 PRODUCTION TAX CREDIT UNDER THIS CHAPTER FOR TAXABLE YEARS 15 ENDING AFTER DECEMBER 31, 2016.

16 SECTION 710. REGULATIONS.

17 THE DEPARTMENT, IN COOPERATION WITH THE DEPARTMENT OF 18 REVENUE, SHALL PROMULGATE REGULATIONS NECESSARY FOR THE 19 IMPLEMENTATION AND ADMINISTRATION OF THIS CHAPTER.

20 SECTION 711. APPLICABILITY OF CHAPTER.

21 THIS CHAPTER SHALL APPLY AS FOLLOWS:

22 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THIS CHAPTER
23 SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31,
24 2007.

(2) THE TAX CREDIT UNDER THIS CHAPTER SHALL APPLY TO
ALTERNATIVE ENERGY PRODUCTION PROJECTS COMMENCING ON OR AFTER
THE EFFECTIVE DATE OF THIS SECTION.

28

CHAPTER 29

29 MISCELLANEOUS PROVISIONS

30 SECTION 2901. EFFECTIVE DATE.

20071H0001B0086

- 62 -

1 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.