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2007

FIRST SPECIAL SESSION

No. 23

SENATE

TUESDAY, December 11, 2007

The Senate met at 5:32 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

PRAYER AND PLEDGE DISPENSED WITH

The PRESIDENT. Without objection, we will dispense with the prayer and the Pledge of Allegiance for today's Session.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a legislative leave for Senator Punt, and a temporary Capitol leave for Senator Madigan.

The PRESIDENT. Senator Pileggi requests a legislative leave for Senator Punt, and a temporary Capitol leave for Senator Madigan.

The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, I request legislative leaves for Senator Stout and Senator Ferlo.

The PRESIDENT. Senator O'Pake requests legislative leaves for Senator Stout and Senator Ferlo.

Without objection, the leaves will be granted.

LEAVE OF ABSENCE

Senator PILEGGI asked and obtained a leave of absence for Senator PIPPY, for today's Session, for personal reasons.

RECESS

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Madam President, I ask for a recess of the Senate for the purpose of a Republican caucus at 6 p.m.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Madam President, for our Members' information, can the gentlewoman tell us what is the approximate time of return?

Senator ORIE. Madam President, approximately 7 p.m.

The PRESIDENT. For the purpose of a Republican caucus, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I request a temporary Capitol leave for Senator Tomlinson.

The PRESIDENT. Senator Pileggi requests a temporary Capitol leave for Senator Tomlinson. Without objection, the leave will be granted.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 22 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL AMENDED

SB 1 (Pr. No. 33) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for development of alternative sources of energy.

On the question,

Will the Senate agree to the bill on third consideration?

Senator M.J. WHITE offered the following amendment No. A5193:

Amend Sec. 102, page 18, line 30, by inserting after "ENERGY": or products that improve energy efficiency

Amend Sec. 102, page 19, line 16, by inserting after "EXISTING": energy

Amend Sec. 102, page 19, line 17, by striking out "A" and inserting:

an energy

Amend Sec. 102, page 19, by inserting between lines 24 and 25:

(4) An energy service project.

"Consumer energy conservation project." The purchase or installation of any of the following:

(1) Solar or solar photovoltaic panels.

(2) Energy efficient windows and doors, including windows and doors with low-emissivity glass, coatings and glazings.

(3) Geothermal heat pumps.

(4) Insulation, air-sealing and other energy saving projects approved by the department.

(5) Energy efficient heating and cooling equipment.

(6) Energy efficient solid fuel residential furnaces, as approved by the Department of Environmental Protection, to include furnaces that burn coal or wood pellets.

Amend Sec. 102, page 20, line 3, by inserting after "STANDARDS": available at the time of purchase

Amend Sec. 102, page 20, by inserting between lines 4 and 5:

"Energy service project." A project undertaken by a political subdivision pursuant to an energy savings contract with a qualified provider under 62 Pa.C.S. Ch. 37 Subch. E (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.

Amend Sec. 102, page 21, lines 3 through 10, by striking out all of said lines

Amend Sec. 102, page 21, by inserting between lines 13 and 14:

"Small business." A person that is engaged in a for-profit enterprise and that employs 100 or fewer individuals. The term includes an agricultural producer of a farm commodity.

Amend Sec. 302, page 21, lines 23 through 30; page 22, lines 1 through 5, by striking out all of said lines on said pages and inserting:

(a) Appropriation.—An amount not to exceed \$20,000,000 of the gross receipts collected during each fiscal year under Article XI of the Tax Reform Code of 1971 shall be annually appropriated from the General Fund to the authority. The authority may use the funds in accordance with the following:

(1) The authority may elect to incur indebtedness under this section in the amount of \$250,000,000 plus the payment of all reasonable costs and expenses related to the issuance of indebtedness in accordance with 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority) for up to 25 years. For fiscal years 2008-2009 through 2032-2033, the \$20,000,000 appropriated under this section, or as much thereof as may be necessary, shall be used by the authority for payment of debt service. Proceeds from any debt incurred under this section shall be allocated in accordance with this chapter. Allocation of proceeds from debt shall be made over a period of at least three years and shall not exceed \$75,000,000 in any year.

(2) If the authority does not incur indebtedness under paragraph (1), for fiscal years 2008-2009 through 2019-2020, the authority shall allocate the \$20,000,000 annually appropriated under this section in accordance with this chapter. For Fiscal Year 2020-2021, the sum of \$10,000,000 of gross receipts tax shall be appropriated under this section and allocated in accordance with this chapter.

(b) Authority.—Funds available to the authority under subsection (a) may be used for the award of grants or loans for projects under this chapter.

Amend Sec. 303, page 22, lines 8 through 10, by striking out all of said lines and inserting: available to the authority under section 302(a) shall be allocated to the Ben Franklin Technology

Amend Sec. 303, page 22, lines 14 and 15, by striking out "ALLOCATED UNDER THIS SUBSECTION"

Amend Sec. 303, page 22, line 20, by inserting after "TECHNOLOGIES": Funds allocated under this paragraph shall be distributed equally among the Ben Franklin Technology Partners.

Amend Sec. 303, page 22, line 21, by inserting after "PERCENT": of the funds

Amend Sec. 303, page 23, line 2, by inserting after "BOARD.": The guidelines shall seek to ensure that minority-owned, women-owned and other disadvantaged businesses have the opportunity to substantially participate in funding activities undertaken pursuant to this section.

Amend Sec. 303, page 23, line 19, by inserting after "DEVELOPED": , a description of how the investments of the partners through this program will save energy in this Commonwealth

Amend Sec. 304, page 23, lines 22 through 24, by striking out all of said lines and inserting: available to the authority under section 302(a) shall be allocated to the department for pollution

Amend Sec. 305, page 24, line 13, by striking out all of said line and inserting:

Section 305. Commonwealth Financing Authority.

Amend Sec. 305, page 24, line 14, by inserting after "FUNDS": available to the authority under section 302(a) and

Amend Sec. 305, page 25, lines 3 and 4, by striking out "OR CHAPTER 7"

Amend Sec. 305, page 25, line 10, by inserting after "COMMONWEALTH.": Projects shall be awarded in accordance with 64 Pa.C.S. § 1512 (relating to board).

Amend Sec. 305, page 25, line 16, by inserting after "THE": United States

Amend Sec. 305, page 25, line 17, by striking out "A-199" and inserting: A-119

Amend Sec. 305, page 25, lines 22 through 24, by striking out all of said lines and inserting:

(4) Include high-performance categories and standards that have been tested and proven in the marketplace and other criteria that have been deemed appropriate by the department.

Amend Sec. 305, page 26, lines 5 and 6, by striking out "THE CHIEF EXECUTIVE OFFICER" and inserting: a contact person

Amend Sec. 305, page 26, line 8, by striking out "CURRENT OR FUTURE"

Amend Sec. 305, page 26, line 9, by inserting after "YEAR": and the current fiscal year

Amend Sec. 305, page 26, by inserting between lines 15 and 16:

(4) A description of how the program will save energy in this Commonwealth.

Amend Sec. 305, page 26, line 18, by inserting a period after "COSTS"

Amend Sec. 305, page 26, lines 18 and 19, by striking out "OTHER THAN COSTS RELATED TO THE ISSUANCE OF" in line 18 and all of line 19

Amend Bill, page 26, by inserting between lines 19 and 20:

CHAPTER 4

APPROPRIATION FROM GROSS RECEIPTS TAX

Section 401. Appropriation.

For fiscal years 2008-2009 through 2012-2013, the sum of \$3,000,000 of the gross receipts tax collected each year under Article XI of the Tax Reform Code of 1971 shall be appropriated to the Alternative Fuels Incentive Fund established under the act of November 29, 2004 (P.L.1376, No.178), known as the Alternative Fuels Incentive Act, for rebates for the purchase of bi-fuel, dual-fuel, hybrid or dedicated vehicles under section 3(d) of the Alternative Fuels Incentive Act.

Section 402. Amount of rebate.

Notwithstanding the provisions of section 3(d) of the act of November 29, 2004 (P.L.1376, No.178), known as the Alternative Fuels Incentive Act, rebates for the purchase of a vehicle under that act shall be up to \$750 per applicant to the extent funding is available.

Amend Chapter Heading, page 26, line 21, by striking out "HOME ENERGY EFFICIENCY" and inserting: ENERGY

Amend Sec. 501, page 26, line 24, by inserting after "PROVIDE": loans,

Amend Sec. 501, page 26, line 25, by striking out "CONSUMERS" and inserting: individuals and small businesses

Amend Sec. 502, page 26, line 26, by striking out all of said line and inserting:

Section 502. Appropriation.

Amend Sec. 502, page 26, lines 27 and 28, by striking out "EACH FISCAL YEAR BEGINNING AFTER JUNE 30, 2008, AND ENDING BEFORE JULY 1, 2018" and inserting: fiscal years 2008-2009 through 2017-2018

Amend Sec. 502, page 26, line 30, by striking out "TRANSFERRED" and inserting: appropriated

Amend Sec. 502, page 27, line 1, by striking out "AND APPROPRIATED"

Amend Sec. 502, page 27, line 2, by inserting after "PROVIDE": loans,

Amend Sec. 502, page 27, line 2, by striking out "AND" and inserting: or

Amend Sec. 503, page 27, line 4, by striking out all of said line and inserting:

Section 503. Allocation.

Amend Sec. 503, page 27, line 5, by striking out "TRANSFERRED" and inserting: appropriated

Amend Sec. 503, page 27, lines 7 and 8, by striking out all of line

7 and "SECTION" in line 8 and inserting:

(1) The sum of \$10,000,000

Amend Sec. 503, page 27, lines 27 and 28, by striking out all of line 27 and "DEPARTMENT UNDER THIS SECTION" in line 28 and inserting:

(2) The sum of \$10,000,000

Amend Sec. 503, page 27, line 28, by inserting after "FOR": loans,

Amend Sec. 503, page 27, line 29, by striking out "FOR RESIDENTIAL" and inserting: residing in owner-occupied dwellings or to small businesses for the purchase and installation price of consumer

Amend Sec. 503, page 28, line 1, by striking out "35%" and inserting: 25%

Amend Sec. 503, page 28, line 2, by striking out "RESIDENTIAL" and inserting: consumer

Amend Bill, page 28, by inserting between lines 2 and 3:

Section 504. Additional appropriation.

(a) Appropriation.—For fiscal years 2008-2009 through 2017-2018, the sum of \$5,000,000 of the gross receipts tax collected during each fiscal year under Article XI of the Tax Reform Code of 1971 shall be annually appropriated from the General Fund to the Department of Environmental Protection to provide loans, grants, reimbursements and rebates for solar and solar photovoltaic panels.

(b) Rebate amount.—Rebate amounts shall be set by the department and shall not exceed 35% of the purchase or installation price of the solar or solar photovoltaic panel.

Amend Sec. 504, page 28, line 3, by striking out "504" and inserting: 505

Amend Sec. 504, page 28, line 4, by striking out "SEEKING A" and inserting: or a small business seeking a loan,

Amend Sec. 504, page 28, line 6, by inserting after "DEPARTMENT.": The application shall include a statement that the new consumer energy conservation product replaces an existing product.

Amend Bill, page 28, lines 7 through 25, by striking out all of said lines and inserting:

Section 506. Standards.

(a) Solar.—The department shall establish a schedule that determines the amount of any loan, grant, reimbursement or rebate for the price and installation for each type of solar or solar photovoltaic panel based on the number of kilowatt hours generated. The department shall publish system performance information relating to the electricity savings for solar or solar photovoltaic panels that are eligible for a loan, grant, reimbursement or rebate under this chapter.

(b) 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.

(c) Publication.—The information required under subsections (a) and (b) shall be posted and maintained on the department's Internet website.

Section 507. Guidelines.

The department shall publish guidelines in the Pennsylvania Bulletin relating to the following:

(1) Eligibility of applicant.

(2) Types of products and consumer energy conservation projects eligible under this chapter.

Section 508. Reporting.

The department shall provide an annual 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;

(2) the number and category of grants, loans, reimbursements or rebates; and

(3) a description of how the program will save energy in this Commonwealth.

Section 509. Administrative costs.

No more than 1% of the funds allocated to the department under this chapter shall be used for administrative costs.

Amend Bill, page 28, by inserting between lines 25 and 26:

CHAPTER 6

HOME ENERGY EFFICIENCY LOAN PROGRAM

Section 601. Scope of chapter.

This chapter relates to the Home Energy Efficiency Loan Program.

Section 602. Definitions.

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

"Adult household member." Any person over the age of 18 who resides in the home as a principal residence and who is not a full-time undergraduate student.

"Agency." The Pennsylvania Housing Finance Agency.

"Applicant." A person that submits an application for a low-interest rate home energy efficiency loan under this chapter.

"Approved contractor." A contractor approved by the agency in accordance with this chapter.

"Contractor." Any person who owns and operates an energy efficiency service-related business or who undertakes, offers to undertake or agrees to perform any energy efficiency project to be financed by a loan issued under this chapter.

"Energy efficiency project." The purchase or installation of any of the following:

(1) Air sealing, insulation and duct work.

(2) Energy efficient windows and doors.

(3) Energy efficient heating or cooling systems or repairs.

(4) Roofing repair, replacement or improvements.

"Full-time undergraduate student." An individual enrolled for at least 12 credit hours per semester at an institution of higher education.

"Fund." The Home Energy Efficiency Loan Fund established under section 605.

"Home energy efficiency loan." A low-interest rate loan awarded under this chapter.

Section 603. Home Energy Efficiency Loan Program.

(a) Establishment.—There is established a home energy efficiency loan program which shall be administered by the agency. The program shall provide loans to eligible households for energy efficiency projects.

(b) Household eligibility.—Dwelling units that are owner-occupied 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.

(c) Applications.—An individual may submit an application to the agency requesting a loan. The application shall be on the form required by the agency and shall include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The identity of the approved contractor who will complete the energy efficiency project.

(3) A description of the energy efficiency project and an estimate of the cost of the project, including an itemized list of project costs, prepared by the approved contractor identified under paragraph (2).

(4) The amount of the loan sought.

(5) A statement authorizing the agency to conduct a credit history check.

(6) Any other information required by the agency.

(d) Review of project financing applications.—The agency shall review the application to determine if:

(1) The project is eligible for financing under this program.

(2) The applicant is eligible to receive a loan under this program.

(3) The value of the proposed collateral and the financial resources of the applicant are sufficient to repay the loan.

(4) The statement of the estimated cost of the project is accurate and reasonable.

(5) The applicant complied with all other criteria 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.

(f) Security.—All loans awarded under this act shall be secured by a lien on the property for which the loan was approved and other sufficient collateral as determined by the agency.

(g) Limitations.—

(1) An applicant may not apply for a loan in an amount less than

\$1,000 nor more than \$10,000.

(2) The agency shall not require a loan to be repaid in full within six months of the loan closing date.

(3) The interest rate shall be a below-market, fixed interest rate, as determined by the agency.

(4) The loan repayment period may not exceed ten years with no prepayment penalty.

Section 604. Approved contractors.

(a) Registration required.—No contractor may undertake, offer to undertake or agree to perform any energy efficiency project to be financed by a loan issued under this program unless the contractor is approved by the agency.

(b) Application for enrollment.—A contractor may apply to become an approved contractor by filing an application with the agency. The application shall be on the form prescribed by the agency and shall include or demonstrate all of the following:

(1) For an individual applicant, the name, home address, home telephone number and driver's license identification number of the applicant or an identification card issued by the Department of Transportation, as well as the individual's business name, address and telephone number if different, and all prior business names and addresses of home improvement businesses.

(2) For a partnership applicant, the name, home address, home telephone number and driver's license identification number of each partner as well as the partnership name, address and telephone number.

(3) For a corporation, limited liability company or 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.

(4) For an out-of-State corporation, limited liability company or limited partnership, the name and address of the entity's resident agent or registered office provider within this Commonwealth and any registration number or license number issued to the entity by its home state or political subdivision of the other state, if applicable.

(5) For a joint venture applicant, the name, address and telephone number of the joint venture, as well as the name, address and telephone number of each party to the joint venture. If the parties to a joint venture include business entities, the information required from the entities under this subsection shall also be provided.

(6) A complete description of the nature of the contracting business of the applicant, including a statement defining the service area of the business.

(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 businesses in which the applicant held an interest that was related to a home improvement transaction.

(iii) The applicant's certificate or the certificate of a business with which the person making application held an interest has ever been revoked or suspended pursuant to an order issued by a court of competent jurisdiction in this Commonwealth or any other state or political subdivision thereof and, if so, the current status of the certificate.

(8) Whether within the last ten years the applicant has been suspended or debarred from participating in any Federal, State or local program through which public funding or other assistance is provided to consumers for home improvements.

(9) Proof of liability insurance covering personal injury in an amount not less than \$50,000 and insurance covering property damage caused by the work of the contractor in an amount not less than \$50,000.

(c) Approval of application.—Upon being satisfied that all requirements have been met, the agency may approve the application and, if approved, designate the applicant as an approved contractor. The agency shall not approve an application if any of the following conditions exist:

(1) 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.

(2) The applicant has ever been suspended or debarred from participating in any Federal, State or local program through which public funding or other assistance is provided to consumers for home improvements.

Section 605. Home Energy Efficiency Loan Fund.

(a) Appropriation.—For Fiscal Year 2008-2009, the sum of \$5,000,000 of the gross receipts tax collected during that fiscal year under Article XI of the Tax Reform Code of 1971 shall be appropriated from the General Fund to the Pennsylvania Housing Finance Agency for deposit in the Home Energy Efficiency Loan Fund established in subsection (b).

(b) Establishment.—Money appropriated to the agency under this section shall be deposited into a restricted receipts account to be known as the Home Energy Efficiency Loan Fund, and used in association with loans awarded by the agency under this program.

(c) Revolving loan fund.—Proceeds of bonds issued to fund the loans authorized under this chapter and any moneys received as loan repayments, or moneys otherwise made available to the fund, shall be deposited in the fund and made available for additional loans. No more than 1% of the funds may be used for reasonable administrative costs.

Section 606. Annual report.

(a) Contents.—On or before December 1 of each year, the agency shall prepare a report evaluating the loans awarded under this chapter during the previous fiscal year. The report shall be submitted 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 and include the following, listed by county where appropriate:

(1) The total number of applications received and loans awarded.

(2) The date of approval of each loan, including the original principal balance, the interest rate and the repayment period.

(3) A brief description of the energy efficiency project for which the loan was made.

(4) Any recommendation to the General Assembly for improvements in the program.

(5) Any other information deemed by the agency to be relevant or necessary to complete a comprehensive review of the program, provided that personal information of individual loan recipients shall be considered confidential and not subject to disclosure.

(6) A description of the energy savings resulting from the project.

(b) Report posting.—The agency shall post and maintain the report on the agency's Internet website.

Section 607. Agency guidelines.

The agency shall promulgate guidelines necessary for the administration and enforcement of this act, which shall be published by the agency in the Pennsylvania Bulletin within 90 days of the effective date of this section.

Amend Sec. 702, page 29, lines 5 and 6, by striking out all of said lines and inserting:

"Alternative energy production project." A project located in this Commonwealth that has a useful life of at least four years. The term includes:

Amend Sec. 702, page 29, line 9, by inserting after "TECHNOLOGIES": , waste energy technologies

Amend Sec. 703, page 30, line 9, by inserting before "A":

(a) General rule.—

Amend Sec. 703, page 30, line 10, by inserting after "PROJECT": located in this Commonwealth with a useful life of at least four years

Amend Sec. 703, page 30, line 12, by striking out "OF EACH YEAR" and inserting: , 2009, and February 1 of each year thereafter

Amend Sec. 703, page 30, line 13, by striking out "DEPARTMENT OF REVENUE FOR" and inserting: department on a form prescribed by the department, setting forth

Amend Sec. 703, page 30, by inserting between lines 15 and 16:

(b) Application.—An application shall be developed by the department and shall include:

(1) Type and location of the alternative energy production project.

(2) Total cost of the alternative energy production project.

(3) Any other information deemed appropriate by the department.

Amend Sec. 704, page 30, line 19, by striking out "75%" and in-

serting: 15%

Amend Sec. 704, page 30, line 21, by inserting after "PROJECTS":
, not to exceed \$1,000,000 for each taxpayer,

Amend Sec. 704, page 30, lines 24 through 29, by striking out all of said lines and inserting:

(b) Calculation.—In calculating the total amount of all development, equipment and construction costs paid for alternative energy production projects, the taxpayer shall deduct the amount of any grant or other subsidy received in relation to the alternative energy production project for which the credit is sought by the taxpayer from a Federal, State or local government entity, including an authority.

(c) Notification of applicant.—The department shall within 90 days of receipt review each application and notify the applicant whether or not the applicant is approved for a tax credit.

(d) Notification of Department of Revenue.—Upon determination that an approved applicant has incurred costs for an alternative energy production project, the department shall notify the Department of Revenue that the applicant has incurred the costs for an alternative energy production project and the amount of alternative energy production tax credit approved for the eligible applicant.

Amend Sec. 705, page 31, line 17, by striking out "DEPARTMENT OF REVENUE" and inserting: department

Amend Sec. 705, page 31, lines 26 and 27, by striking out all of said lines and inserting:

(d) Sale or assignment.—

(1) A taxpayer, upon application to and approval by the department, may sell or assign, in

Amend Sec. 705, page 32, line 2, by striking out "DEPARTMENT OF REVENUE" and inserting: department

Amend Bill, page 32, lines 4 through 7, by striking out all of said lines and inserting:

(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 as determined at assessment by the Department of Revenue.

(3) Notwithstanding any other provision of law, the Department of Revenue shall assess the tax of an applicant under this subsection within 90 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.

(e) Purchasers and assignees.—The purchaser or assignee of all or a portion of a tax credit under subsection (d) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of such qualified tax liability for the taxable year. The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit. The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the tax credit in compliance with procedures specified by the Department of Revenue.

Section 706. Limitation on tax credits.

(a) Total.—The total amount of credits approved by the department shall not exceed:

(1) \$7,000,000 in Fiscal Year 2008-2009.

(2) \$12,000,000 in fiscal years 2009-2010 through 2012-2013.

(3) \$15,000,000 in fiscal years 2013-2014 through 2017-2018.

Amend Sec. 708, page 33, lines 14 and 15, by striking out all of said lines and inserting: the department, in consultation with the Department of Revenue, shall

Amend Sec. 708, page 34, lines 20 and 21, by striking out "DEPARTMENT OF REVENUE'S AND THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT'S"

Amend Sec. 708, page 34, line 22, by inserting after "WEBSITE":
of the Department of Revenue and the department

Amend Sec. 709, page 34, line 29, by striking out "DEPARTMENT OF REVENUE" and inserting: department

Amend Sec. 710, page 35, line 3, by striking out "DEPARTMENT OF REVENUE" and inserting: department, in cooperation with the Department of Revenue,

Amend Sec. 711, page 35, line 7, by striking out "TAX" and inserting: taxable

On the question,

Will the Senate agree to the amendment?

The PRESIDENT. The Chair recognizes the gentlewoman from Venango, Senator Mary Jo White.

Senator M.J. WHITE. Madam President, Senate Bill No. 1, as everyone here knows, is sort of the workhorse bill of the Special Session on energy. I want to thank all of the Senators who had input on this and who helped, specifically Senator Tomlinson and his staff. Tonight's amendment fulfills a promise that I made to the Special Session committee that Senate Bill No. 1, as introduced by Senator Tomlinson and me, would not be the final word, that we would keep that bill open for input from all other interested Senators and see what had the strongest support.

The amendment I am submitting tonight is the product of that kind of collaboration. Specifically, the amendment adds small businesses, including producers of agricultural commodities that employ 100 or fewer individuals as eligible applicants for the consumer energy program. It adds energy-efficient solid fuel residential furnaces, including coal and wood pellets, to the products eligible for loans or rebates. Most importantly, it creates a solar carve-out, dedicating \$50 million from funds originally dedicated to tax credits in the amount of \$5 million a year for 10 years for rebates for certain solar projects based on the amount of kilowatt-hours saved. It adds a \$5 million one-time appropriation to the Pennsylvania Housing Finance Agency for loans to low-income homeowners for energy-efficient improvements.

Madam President, when we held our hearing on this, we heard a great deal about the aging housing stock in Pennsylvania. LIHEAP is a wonderful program, and this bill is helping LIHEAP as well. But if we are simply going to assist low-income persons in paying their ever-increasing energy bills and not do anything to make their homes more energy-efficient, our money is going right up their chimneys. So this is a 1-year reduction in the \$20 million allocated for tax credits. Additionally, it dedicates \$15 million from funds originally in the tax credit pot for hybrid car rebates, again improving our air quality and reducing our dependence on oil-based products, particularly those from foreign countries. So I think this amendment fulfills our commitment to the Members of the Special Session to include their concerns in Senate Bill No. 1, and I ask for strong bipartisan approval of this amendment.

Thank you, Madam President.

POINT OF ORDER

The PRESIDENT. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Madam President, I rise for a ruling from the Chair as to whether I would be precluded from voting on Senate Bill No. 1, its amendments, or other bills such as Senate Bill No. 22 and Senate Bill No. 36 and their amendments that may come before us during this Special Session on alternative energies. On July 15, 2007, the Chair made a ruling in response to my request regarding House Bill No. 1203 of the Regular Session, and I would like to know whether the Chair's ruling then would also apply to the Special Session legislation that we are in today.

Thank you, Madam President.

The PRESIDENT. Senator Greenleaf, in the situation you have explained, the Chair does not find any conflict of interest. In accordance with Senate Rules, you will be required to vote, whether it is Senate Bill No. 1, Senate Bill No. 22, or Senate Bill No. 36. As I said before, you are in a class of individuals, be they stockholders, members of boards of directors, or employees who have an interest in a whole class of companies that may or may not be affected by passage of any of this legislation. So the Chair finds that these issues presented in the legislation are not particularly personal or pecuniary to you, Senator Greenleaf.

And the question recurring,
Will the Senate agree to the amendment?

FONTANA AMENDMENT A5195 TO A5193 OFFERED

Senator FONTANA offered the following amendment No. A5195 to amendment No. A5193:

Amend Amendments, page 2, by inserting between lines 5 and 6:
Amend Sec. 102, page 20, lines 8 through 25, by striking out all of said lines

Amend Amendments, page 2, by inserting between lines 42 and 43:
Amend Sec. 303, page 22, line 7, by striking out "\$3,000,000" and inserting: \$8,000,000

Amend Amendments, page 2, by inserting between lines 46 and 47:
Amend Sec. 303, page 22, line 12, by striking out "\$15,000,000" and inserting: \$40,000,000

Amend Amendments, page 3, lines 20 through 26, by striking out all of said lines and inserting:

Amend Sec. 304, page 23, lines 20 through 30; page 24, lines 1 through 12, by striking out all of said lines on said pages

Amend Sec. 305, page 24, line 13, by striking out "305" and inserting: 304

Amend Amendments, page 3, by inserting between lines 28 and 29:
Amend Sec. 305, page 24, line 15, by striking out "AND 304"

On the question,

Will the Senate agree to amendment No. A5195 to amendment No. A5193?

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Fontana.

Senator FONTANA. Madam President, this amendment deletes the pollution control technology project section and all related definitions and references from Senate Bill No. 1 and transfers the money allocated to that program, which is \$25 million, from the gross receipts transfer, or proceeds of indebtedness from the bond, to the Ben Franklin Technology Development Authority. The amendment would increase the allocation to the Ben Franklin Technology Partners to \$40 million, and it would retain the existing split of funding between energy-related investments to support early-stage opportunities at 60 percent and venture capital for Pennsylvania start-up companies at 40 percent.

Madam President, I do not feel we should be subsidizing high-profit, coal-fired power plants that were federally mandated to reduce their mercury emissions. It is not the obligation of the taxpayers to fund their compliance; it is the power plants' responsibility to do that. I think taxpayer money is better utilized being invested in technology-based economic development, and that is

just what the Ben Franklin Technology Partners do. They were created over 20 years ago. Ben Franklin Technology Partners have invested capital in emerging technology-based enterprises and established businesses, providing hands-on technical and business expertise.

An independent study, Madam President, has shown that the Commonwealth of Pennsylvania's investment in Ben Franklin has yielded substantial returns in the last 20 years. From 1989 through 2001, Ben Franklin boosted the State's economy by \$8 billion and helped create 93,000-plus jobs. In addition, during that same period, every public dollar invested by Ben Franklin yielded nearly \$23 of additional State income. The State garnered more than \$400 million in additional tax revenue as a direct result of the program, which more than covered the operating costs of the program over the same period.

So as you can see, Madam President, Ben Franklin Technology Partners has a track record of success and has earned the opportunity to be funded at a higher level. I respectfully ask my colleagues for an affirmative vote on this amendment.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentlewoman from Venango, Senator Mary Jo White.

Senator M.J. WHITE. Madam President, I respectfully ask for a "no" vote on the Fontana amendment. I certainly agree with his comments that the Ben Franklin initiative is a good one. I think their track record is excellent, and we have in this bill \$3 million for 5 years, a total of \$15 million, dedicated to that very good organization, and I am confident, as he says, they will spend it well and get a good return on our investment. But what we are talking about here is a relatively small amount, \$25 million, that is dedicated toward helping small coal-fired power plants in Pennsylvania meet their obligations under the Clean Air Interstate Rule, and including the Clean Air Mercury Rule.

When we debated in this Chamber whether to impose a more stringent mercury rule than the Federal government was requiring, that rule was defeated in here 40 to 10. I think the reason that rule was defeated, Madam President, is that people here realized the impact that could have on small electric-generating coal-fired plants in Pennsylvania. We are now requiring coal-fired power plants to reduce their output of mercury by over 90 percent in 2010 and by 95 percent in 2015. This will require the installation of costly technology and possibly scrubbers. The large electric-generating plants, the gentleman is absolutely correct, are highly profitable entities. I have no desire to assist them with pollution control technology, and in fact, it is not necessary because most of them have already completed their pollution control plans. The plants I am talking about are the marginal coal plants.

It is estimated that between 8,000 and 12,000 megawatts of coal-fired generation capacity in the PJM system are in danger of shutting down due to the new care rules, because they are not large enough to justify the scrubber expense over the megawatts of their plant. A loss of this large amount of base-load generation, 10 percent, Senator Tomlinson and I held hearings on this, and we were told by experts that PJM was facing a potential loss, because of these rules, of 10 percent of our generating capacity.

Now, everybody in this room who loves wind and loves solar and loves hydro and loves renewables knows that we are not

going to make up 10 percent of our generating capacity with these technologies anytime soon. If we do not, if we lose this capacity, we then have to rely on very costly gas peaking units, which is the most expensive electricity in the Commonwealth, and possibly in the world. If that happens, Madam President, when the caps come off on our electric rates, we can expect to see tremendous increases in cost to our residential business and industrial consumers.

In addition, I have heard from one small generating plant that said that they have an estimated annual payroll of \$32 million, and this kind of assistance could preserve an estimated 200 Pennsylvania jobs in the coal mining, railroad, trucking, and other support industries.

Madam President, I urge a "no" vote on deleting this small but very important subsidy to assist our small coal-fired generators in meeting their pollution obligations.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Madam President, I think all I would say in response to Senator White's comments is ditto. I think the point made was excellently done in terms of the devastating effect this amendment will have upon the coal region. Coming out of the hard-coal anthracite area, it is a fight day by day to be able to keep our plants going, keep our jobs there. To take something like this away from them when they are in the midst of trying to develop and succeed, I think, would be devastating.

Let me also say, because there are only a few of us who remember - Senator Mellow would be one, Senator Stout another, Senator O'Pake, Senator Greenleaf, and myself - about 25 years ago we put \$1.6 million out, where 60 percent went to bituminous and 40 percent went to anthracite, to look at how to increase the market. One that we came up with, Skelly and Loy did the study, was combining low-sulfur anthracite with the higher 2- or 3-percent bituminous, and that, in turn, could reduce that chemical problem we have. I would like to be able to do that again, and I think we can.

The other thing, too, is people today, if you are in real estate, they are not looking for homes that have oil furnaces in them, because they know they are too expensive. They are looking for homes that can switch over. We came back and had found an easy way for ash disposal, so that our elderly citizens could carry the bags right out. That was done. It was developed down in Delaware.

This is the kind of technology we can put together, and by the same token, we have this going on. I have a plant in my area that can go from coal to gas liquification. With the kind of proper incentive we can give them in this area, we can have a very environmentally-sound product. Meanwhile, I am also dealing with another fellow who can treat coal and take out the heavy metals, that CO₂, beyond the effect, and the SO₂ would be nonexistent, but we need the time to do that. So to put coal down at this particular point would mean we would end up destroying not only the anthracite area but the bituminous area as well, so I ask for a "no" vote on this amendment.

The PRESIDENT. The Chair recognizes the gentleman from Cambria, Senator Wozniak.

Senator WOZNIAK. Madam President, in an ideal world, we would be able to go to seawater, squeeze it, make hydrogen out of it, and have a completely pollutionless energy source. But for the rest of us in the year 2007, we have Walgreens. Whether you like it or not, coal is the largest producer of electricity in Pennsylvania. Interestingly enough, nuclear energy comes in second.

We need all the initiatives that we can muster to try to develop clean coal technology because coal is relatively inexpensive, it has a high BTU, and it is lighting this very Chamber and millions of homes in Pennsylvania right now. If we try to destroy any opportunity we have or increase the expense of it, it is going to be directly placed, in the long run, on the consumer. If we have to do things with coal, one of the easiest ways that they correct the problem is they use cleaner coal, and that comes from the west. And I do not mean western Pennsylvania. I mean the western States. They will ship it in, and our people will lose their jobs in the already lethargic coal fields of Pennsylvania. I would appreciate a "no" vote on this particular amendment.

Thank you, Madam President.

And the question recurring,

Will the Senate agree to amendment No. A5195 to amendment No. A5193?

The yeas and nays were required by Senator FONTANA and were as follows, viz:

YEA-12

Boscola	Ferlo	Hughes	Stack
Costa	Fontana	Kitchen	Washington
Dinniman	Fumo	Logan	Williams, Constance

NAY-37

Armstrong	Greenleaf	Pileggi	Vance
Baker	Kasunic	Punt	Waugh
Browne	LaValle	Rafferty	White, Donald
Brubaker	Madigan	Regola	White, Mary Jo
Corman	McIlhinney	Rhoades	Williams, Anthony H.
Earl	Mellow	Robbins	Wonderling
Eichelberger	Musto	Scarnati	Wozniak
Erickson	O'Pake	Stout	
Folmer	Orie	Tartaglione	
Gordner	Piccola	Tomlinson	

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

And the question recurring,

Will the Senate agree to amendment No. A5193?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator PILEGGI.

BILL OVER IN ORDER

SB 36 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

JOURNAL APPROVED

The PRESIDENT. The Journal of the Special Session of December 5, 2007, is now in print.

The Clerk proceeded to read the Journal of the Special Session of December 5, 2007, when, on motion of Senator PILEGGI, and agreed to by voice vote, further reading was dispensed with and the Journal was approved.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Madam President, I move that the Special Session of the Senate do now recess until Wednesday, December 12, 2007, immediately following the recess of the Regular Session.

The motion was agreed to by voice vote.

The Special Session of the Senate recessed at 8:08 p.m., Eastern Standard Time.