

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 121 Session of  
2003

INTRODUCED BY BARD, HERSHEY, LEVDANSKY, BUNT, HERMAN, RUBLEY,  
BALDWIN, CREIGHTON, CURRY, DALEY, FAIRCHILD, GEORGE, HORSEY,  
LEACH, MANN, S. MILLER, MUNDY, PAYNE, ROSS, SATHER, SAYLOR,  
SCHRODER, SEMMEL, STERN, TANGRETTI, THOMAS, TIGUE, WATSON,  
WRIGHT, ZUG, YUDICHAK, E. Z. TAYLOR, DeWEESE, REICHLLEY,  
SURRA, ARMSTRONG AND SOLOBAY, FEBRUARY 10, 2003

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND  
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 24, 2004

## AN ACT

1 ~~Authorizing tax credits for qualified alternative fuel~~ <—  
2 ~~producers; establishing the Alternative Fuel and Energy~~  
3 ~~Infrastructure Improvement Fund; and making an appropriation.~~

1 AUTHORIZING INVESTMENT TAX CREDITS FOR QUALIFIED ALTERNATIVE <—  
2 ENERGY ENTERPRISES; ESTABLISHING THE PENNSYLVANIA CLEAN  
3 ENERGY FUND; AND MAKING A TRANSFER OF FUNDS.

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

6 ~~Section 1. Short title.~~ <—

7 ~~This act shall be known and may be cited as the Alternative~~  
8 ~~Fuel and Energy Infrastructure Investment Act.~~

9 ~~Section 2. Legislative findings.~~

10 ~~(1) The General Assembly finds that there is an~~  
11 ~~increasing need for the development of renewable and energy~~  
12 ~~efficient technologies, including wind power, solar thermal~~  
13 ~~electric systems, biomass based power systems, geothermal~~  
14 ~~energy, biofuels, hydrogen based energy systems, electric~~

1 ~~energy systems and storage, photovoltaic energy systems and~~  
2 ~~other new and innovative research based technologies deemed~~  
3 ~~appropriate.~~

4 ~~(2) It is the intent of this act to assist in the~~  
5 ~~creation of a balanced portfolio of renewable and energy~~  
6 ~~efficient technologies while adopting a strategy to fulfill~~  
7 ~~the Commonwealth's long term needs and goals for both energy~~  
8 ~~and the environment.~~

9 ~~Section 3. Definitions.~~

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

13 ~~"Alternative fueled hybrid vehicle." A vehicle that uses an~~  
14 ~~alternative fuel to produce electricity, which in turn powers an~~  
15 ~~electric drive motor for vehicle propulsion.~~

16 ~~"Alternative fuels." A motor vehicle fuel which, when~~  
17 ~~compared to conventional or reformulated gasoline, will result~~  
18 ~~in lower emissions of oxides of nitrogen (NOx), volatile organic~~  
19 ~~compounds (VOC), carbon monoxide (CO), particulates or any~~  
20 ~~combination thereof. These include compressed natural gas (CNG),~~  
21 ~~liquefied natural gas (LNG), liquid petroleum or propane gas~~  
22 ~~(LPG), alcohols, hydrogen, hythane (H2 and CNG), electricity,~~  
23 ~~coal derived liquid fuels, fuels derived from biological~~  
24 ~~materials, and other fuels that the Secretary of the United~~  
25 ~~States Department of Energy determines by rule as meeting the~~  
26 ~~requirements of section 301 of the Energy Policy Act of 1992~~  
27 ~~(Public Law 102-486, 42 U.S.C. § 13211(2)).~~

28 ~~"Department." The Department of Community and Economic~~  
29 ~~Development of the Commonwealth.~~

30 ~~"Fund." The Alternative Fuel and Energy Infrastructure~~

~~Improvement Fund established under section 9.~~

~~"Person." An individual, partnership, association, company, corporation, joint venture or other business entity, municipality, municipal authority or political subdivision.~~

~~"Qualified alternative fuel producer." Any producer of an alternative fuel whose principal place of business and facility for the production of an alternative fuel is located within this Commonwealth.~~

~~"Qualified business." A partnership, association, company, corporation, joint venture or other business entity qualified pursuant to section 5.~~

~~"Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~Section 4. Alternative fuel or alternative energy enterprise designation.~~

~~(a) Establishment. There is hereby established within the department a program providing for alternative fuel or alternative energy enterprise designation.~~

~~(b) Authorization. The department shall designate persons or businesses as alternative fuel or alternative energy enterprises. Persons and businesses that are qualified under this act shall be entitled to all tax exemptions, deductions, abatements or credits set forth in this act for a period not to exceed 15 years beginning January 1, 2003, and ending on or before December 31, 2017.~~

~~Section 5. Qualified businesses.~~

~~In order to qualify each year for a tax exemption, deduction, abatement or credit under this act, a business shall meet any one or more of the following criteria:~~

~~(1) The business is a qualified alternative fuel~~

1 ~~producer as defined in section 3.~~

2 ~~(2) The business is actively engaged in the business of~~  
3 ~~generating electricity from alternative energy sources. This~~  
4 ~~shall include the design, manufacture, distribution,~~  
5 ~~operation, servicing or maintenance of alternative energy~~  
6 ~~projects or equipment. The business shall receive~~  
7 ~~certification from the department that it is designated as~~  
8 ~~such and is actively engaged in the alternative energy~~  
9 ~~generation business.~~

10 ~~(3) The business has invested in pollution control~~  
11 ~~equipment approved by the United States Environmental~~  
12 ~~Protection Agency.~~

13 ~~(4) The business is a manufacturer of alternative fuel~~  
14 ~~vehicles, including, but not limited to, alternative fueled~~  
15 ~~hybrid vehicles as defined in section 3.~~

16 ~~(5) The business is actively engaged in the production~~  
17 ~~of alternative fuels, the manufacturing of equipment,~~  
18 ~~products or techniques utilizing alternative fuels or the~~  
19 ~~production of energy efficient equipment, products or~~  
20 ~~techniques used in the generation of electricity from~~  
21 ~~renewable resources, including, but not limited to, wind~~  
22 ~~power, solar thermal electric systems, biomass based power~~  
23 ~~systems, geothermal energy, biofuels, hydrogen based energy~~  
24 ~~systems, electric energy systems and storage and photovoltaic~~  
25 ~~energy systems.~~

26 ~~Section 6. State taxes.~~

27 ~~(a) General rule. A qualified business shall receive the~~  
28 ~~exemptions, deductions, abatements or credits as provided in~~  
29 ~~sections 7 and 8 for the duration of the alternative fuel or~~  
30 ~~alternative energy enterprise designation. Exemptions,~~

~~deductions, abatements or credits shall expire on the date of expiration of the alternative fuel or alternative energy enterprise designation.~~

~~(b) Construction. The Department of Revenue shall administer, construe and enforce the provisions of this section and sections 7 and 8 in conjunction with Articles II, III, IV, VI, VII, IX and XV of the Tax Reform Code of 1971.~~

~~Section 7. Sales and use tax exemption.~~

~~(a) Exemption. Sales at retail of services or tangible personal property, other than motor vehicles, to a qualified business for the exclusive use, consumption and utilization of the tangible personal property or service by the qualified business at its business facility are exempt from the sales and use tax imposed under Article II of the Tax Reform Code of 1971.~~

~~(b) Electric generation. Electricity generated by a qualified business at its facility installed after January 1, 1999, and sold at retail shall be exempt from the sales and use tax imposed under Article II of the Tax Reform Code of 1971.~~

~~Section 8. Investment tax credit.~~

~~(a) Credit. Any person investing in a qualified business as described in section 5 shall receive a tax credit pursuant to subsection (c) if the department annually approves the written proposal of such person. The proposal shall set forth the investment to be made, including the amount and the qualified business invested in and what the investment is specifically anticipated to be used for, including, but not limited to, the purchase of land, equipment or facilities.~~

~~(b) Decision in writing. The decision of the department to approve or disapprove a proposal pursuant to subsection (a) shall be in writing, and, if it approves the proposal, it shall~~

1 ~~state the maximum credit allowable to the business firm. A copy~~  
2 ~~of the decision of the department shall be transmitted to the~~  
3 ~~Governor and to the Department of Revenue.~~

4 ~~(c) Grant of investment tax credit.~~

5 ~~(1) The Department of Revenue shall grant a tax credit~~  
6 ~~against any tax due under the Tax Reform Code of 1971 in an~~  
7 ~~amount equal to the total amount invested during the taxable~~  
8 ~~year by the person approved under subsection (a).~~

9 ~~(2) The tax credit shall equal 1.5 cents for each~~  
10 ~~kilowatt hour of electricity generated and shall not be based~~  
11 ~~upon the amount invested. The investment tax credit provided~~  
12 ~~herein is intended to be in addition to and not a replacement~~  
13 ~~of any Federal production tax credit now existing or~~  
14 ~~hereafter enacted, and the department and the Department of~~  
15 ~~Revenue shall adopt such regulations and take such action as~~  
16 ~~necessary and appropriate to effectuate this intent.~~

17 ~~(3) No tax credit shall be granted to any bank, bank and~~  
18 ~~trust company, insurance company, trust company, national~~  
19 ~~bank, savings association, mutual savings bank or building~~  
20 ~~and loan association for activities that are a part of its~~  
21 ~~normal course of business. Any tax credit not used in the~~  
22 ~~period the investment was made may be carried over for the~~  
23 ~~next five succeeding calendar or fiscal years until the full~~  
24 ~~credit has been allowed. The total amount of all tax credits~~  
25 ~~allowed pursuant to this act shall not exceed \$30,000,000 in~~  
26 ~~any one fiscal year.~~

27 ~~(d) Regulations. The department is hereby authorized to~~  
28 ~~promulgate regulations for the approval or disapproval of such~~  
29 ~~proposals and provide a listing of all applications received and~~  
30 ~~their disposition in each fiscal year to the General Assembly by~~

~~1 October 1 of the following fiscal year.~~

~~2 Section 9. Alternative Fuel and Energy Infrastructure  
3 Improvement Fund.~~

~~4 (a) Establishment. There is hereby established a separate  
5 fund in the State Treasury to be known as the Alternative Fuel  
6 and Energy Infrastructure Improvement Fund. The fund shall be  
7 administered by the department. In addition to appropriations  
8 approved by the General Assembly, the fund shall include those  
9 cost savings realized by the Commonwealth as the result of  
10 guaranteed energy savings contracts entered into by Commonwealth  
11 agencies as provided for in 62 Pa.C.S. Ch. 37 Subch. E (relating  
12 to guaranteed energy savings contracts).~~

~~13 (b) Use. The fund may be used to provide grants to assist a  
14 qualified business or a person intending to establish a  
15 qualified business with infrastructure improvements, such as  
16 access roads or transmission, production facilities,  
17 distribution or interconnection facilities, pollution control  
18 equipment or for any other purpose approved by the department.  
19 The department shall promulgate regulations for the issuance of  
20 grants.~~

~~21 (c) Proposals. Any qualified business or person intending  
22 to establish a qualified business wishing to obtain a grant  
23 shall submit a written proposal for such grant. The department  
24 shall promulgate regulations for the submittal and contents of  
25 proposals.~~

~~26 (d) Decision in writing. The decision of the department to  
27 approve or disapprove a proposal pursuant to subsection (c)  
28 shall be in writing, and, if the department approves the  
29 proposal, it shall state the maximum amount of the grant. A copy  
30 of the decision of the department shall be transmitted to the~~

~~Governor.~~

~~(c) Appropriation. Appropriations to the fund shall not lapse. Sufficient appropriations shall be made annually in order to maintain a minimum balance of \$10,000,000. Should annual grant activity exceed the funds available, the General Assembly may supplement the fund to restore it to the full annual appropriation.~~

~~Section 10. Appropriation.~~

~~The sum of \$10,000,000 is hereby appropriated to the Department of Community and Economic Development for deposit into the Alternative Fuel and Energy Infrastructure Improvement Fund.~~

~~Section 11. Effective date.~~

~~This act shall take effect in 60 days.~~

SECTION 1. SHORT TITLE.

THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ALTERNATIVE ENERGY INVESTMENT ACT.

SECTION 2. LEGISLATIVE FINDINGS.

(1) THE GENERAL ASSEMBLY FINDS THAT THERE IS AN INCREASING NEED FOR THE DEVELOPMENT AND DEPLOYMENT OF RENEWABLE AND ENERGY-EFFICIENT TECHNOLOGIES, INCLUDING WIND POWER, SOLAR THERMAL ELECTRIC SYSTEMS, BIOMASS-BASED POWER SYSTEMS, GEOTHERMAL ENERGY, BIOFUELS, HYDROGEN-BASED ENERGY SYSTEMS, ELECTRIC ENERGY SYSTEMS AND STORAGE, PHOTOVOLTAIC ENERGY SYSTEMS AND OTHER NEW AND INNOVATIVE TECHNOLOGIES DEEMED APPROPRIATE.

(2) IT IS THE INTENT OF THIS ACT TO ASSIST IN THE ESTABLISHMENT OF A BALANCED PORTFOLIO OF RENEWABLE AND ENERGY-EFFICIENT TECHNOLOGIES WHILE ADOPTING A STRATEGY TO FULFILL THE COMMONWEALTH'S LONG-TERM NEEDS AND GOALS FOR BOTH



ENERGY AND THE ENVIRONMENT.

(3) IT IS THE INTENT OF THIS ACT TO SUPPLEMENT ONGOING EFFORTS SUPPORTING THE DEVELOPMENT OF RENEWABLE ENERGY SOURCES, ESPECIALLY THOSE INITIATIVES BEING ASSISTED THROUGH THE RESOURCES OF THE STATEWIDE SUSTAINABLE ENERGY AND REINVESTMENT FUND PROGRAMS.

### SECTION 3. DEFINITIONS.

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:

"ALTERNATIVE ENERGY RESOURCES." EITHER RENEWABLE ENERGY RESOURCES OR PENNSYLVANIA ALTERNATIVE RESOURCES.

"ALTERNATIVE FUELS." A MOTOR VEHICLE FUEL WHICH, WHEN COMPARED TO CONVENTIONAL OR REFORMULATED GASOLINE, WILL RESULT IN LOWER EMISSIONS OF OXIDES OF NITROGEN (NOX), VOLATILE ORGANIC COMPOUNDS (VOC), CARBON MONOXIDE (CO), PARTICULATES OR ANY COMBINATION THEREOF. THIS TERM INCLUDES, BUT IS NOT LIMITED TO: COMPRESSED NATURAL GAS (CNG), LIQUEFIED NATURAL GAS (LNG), LIQUID PETROLEUM OR PROPANE GAS (LPG), ETHANOL BLENDED AS E85, METHANOL BLENDED AS M85, HYDROGEN, HYTHANE, ANY COMBINATION OF COMPRESSED NATURAL GAS AND HYDROGEN, ELECTRICITY, COAL-DERIVED LIQUID FUELS, BIOFUELS AND OTHER FUELS DETERMINED BY RULE OF THE SECRETARY OF THE UNITED STATES DEPARTMENT OF ENERGY UNDER THE DEFINITION OF "ALTERNATIVE FUEL" IN SECTION 301 OF THE ENERGY POLICY ACT OF 1992 (PUBLIC LAW 102-486, 42 U.S.C. § 13211).

"BI-FUEL VEHICLE OR DUAL-FUEL VEHICLE." A MOTOR VEHICLE, INCLUDING AN ORIGINAL EQUIPMENT MANUFACTURER (OEM) AND RETROFITTED MOTOR VEHICLE, THAT OPERATES ON AN ALTERNATIVE FUEL AND GASOLINE OR AN ALTERNATIVE FUEL AND DIESEL FUEL.

"BIOFUELS." FUELS DERIVED FROM ALCOHOLS, ETHER, ESTERS AND

1 OTHER CHEMICALS MADE FROM CELLULOSIC BIOMASS, INCLUDING, BUT NOT  
2 LIMITED TO, HERBACEOUS AND WOODY PLANTS, AGRICULTURAL AND  
3 FORESTRY RESIDUES AND A LARGE PORTION OF MUNICIPAL SOLID AND  
4 INDUSTRIAL WASTE. THIS TERM INCLUDES A FUEL DERIVED FROM  
5 VEGETABLE OILS OR ANIMAL FATS DESIGNATED B100 THAT MEETS THE  
6 AMERICAN SOCIETY OF TESTING AND MATERIALS SPECIFICATION DG751,  
7 AND B20, WHICH IS COMPRISED OF 20% BIODIESEL WITH 80% DIESEL  
8 FUEL.

9 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF  
10 THE COMMONWEALTH.

11 "FUND." THE PENNSYLVANIA CLEAN ENERGY FUND ESTABLISHED UNDER  
12 SECTION 9.

13 "HYBRID VEHICLE." A MOTOR VEHICLE WHICH DRAWS PROPULSION  
14 ENERGY FROM ONBOARD SOURCES OF STORED ENERGY WHICH ARE BOTH:

15 (1) AN INTERNAL COMBUSTION ENGINE USING COMBUSTIBLE  
16 FUEL.

17 (2) A RECHARGEABLE ENERGY STORAGE SYSTEM.

18 "PENNSYLVANIA ALTERNATIVE RESOURCES." ENERGY FROM ANY OF THE  
19 FOLLOWING:

20 (1) FUEL CELLS OR ANY DEVICE THAT COMBINES HYDROGEN WITH  
21 OXYGEN WITHOUT COMBUSTION IN AN ELECTROCHEMICAL REACTION TO  
22 PRODUCE ELECTRICITY REGARDLESS OF THE SOURCE OF HYDROGEN.

23 (2) WASTE COAL THAT IS BURNED IN FACILITIES CONSTRUCTED  
24 SINCE 1980 AND OPERATING IN COMPLIANCE WITH APPLICABLE  
25 FEDERAL AND STATE EMISSION STANDARDS.

26 (3) METHANE RECOVERED FROM COAL BEDS AND COAL SEAMS.

27 "PERSON." AN INDIVIDUAL RESIDENT OF THIS COMMONWEALTH.

28 "QUALIFIED ALTERNATIVE ENERGY ENTERPRISE." A BUSINESS THAT  
29 DESIGNS, MANUFACTURES, DISTRIBUTES, OPERATES, SERVICES OR  
30 MAINTAINS ALTERNATIVE OR RENEWABLE ENERGY PROJECTS OR EQUIPMENT.

1 THIS TERM INCLUDES A GENERATOR OF ELECTRICITY, PRODUCER OF  
2 USEFUL THERMAL ENERGY OR PRODUCER OF HYDROGEN WHO USES RENEWABLE  
3 ENERGY OR PENNSYLVANIA ALTERNATIVE ENERGY RESOURCES AND WHOSE  
4 FACILITY IS LOCATED WITHIN THIS COMMONWEALTH.

5 "QUALIFIED ALTERNATIVE FUEL ENTERPRISE." A BUSINESS THAT  
6 DESIGNS, MANUFACTURES, DISTRIBUTES, OPERATES, SERVICES OR  
7 MAINTAINS ALTERNATIVE FUEL PROJECTS OR EQUIPMENT. THIS TERM  
8 INCLUDES A BUSINESS THAT PRODUCES AN ALTERNATIVE FUEL AND WHOSE  
9 FACILITY FOR THE PRODUCTION OF THE ALTERNATIVE FUEL IS LOCATED  
10 WITHIN THIS COMMONWEALTH.

11 "QUALIFIED ALTERNATIVE FUEL OR HYBRID VEHICLE MANUFACTURING  
12 ENTERPRISE." A BUSINESS THAT MANUFACTURES HYBRID VEHICLES OR  
13 MOTOR VEHICLES THAT OPERATE ON AN ALTERNATIVE FUEL.

14 "QUALIFIED BUSINESS." A PARTNERSHIP, ASSOCIATION, COMPANY,  
15 CORPORATION, JOINT VENTURE OR OTHER BUSINESS ENTITY QUALIFIED  
16 PURSUANT TO SECTION 5.

17 "QUALIFIED EXPENSE." CAPITAL EQUIPMENT DIRECTLY RELATED TO  
18 THE ACTIVITIES USED BY A QUALIFIED ALTERNATIVE ENERGY  
19 ENTERPRISE, QUALIFIED ALTERNATIVE FUEL ENTERPRISE OR A QUALIFIED  
20 MANUFACTURER OF ALTERNATIVE FUEL OR HYBRID VEHICLES.

21 "QUALIFIED SMALL BUSINESS." A PARTNERSHIP, ASSOCIATION,  
22 COMPANY, CORPORATION, JOINT VENTURE OR OTHER BUSINESS ENTITY  
23 THAT EMPLOYS 100 OR FEWER PERSONS AND MEETS ALL OTHER CRITERIA  
24 FOR A SMALL BUSINESS ESTABLISHED BY THE COMMONWEALTH.

25 "RENEWABLE ENERGY RESOURCES." ENERGY FROM ANY OF THE  
26 FOLLOWING:

27 (1) THE SUN, INCLUDING SOLAR PHOTOVOLTAIC TECHNOLOGIES,  
28 SOLAR THERMAL ELECTRIC SYSTEMS AND SOLAR THERMAL SYSTEMS.

29 (2) WIND, INCLUDING SYSTEMS THAT GENERATE ELECTRICITY  
30 FROM WIND.

1 (3) BIOMASS, INCLUDING SYSTEMS THAT GENERATE ELECTRICITY  
2 FROM LANDFILL METHANE, METHANE FROM ANAEROBIC DIGESTION OF  
3 ORGANIC MATERIAL, UNTREATED AND UNPAINTED WASTE WOOD AND  
4 SAWDUST AND SUSTAINABLY GROWN ENERGY CROPS.

5 (4) LOW-IMPACT HYDROELECTRIC OR OTHER TECHNOLOGIES THAT:

6 (I) HARNESS THE INCREMENTAL HYDROELECTRIC POTENTIAL  
7 OF WATER IMPOUNDMENTS PROVIDED SUCH INCREMENTAL  
8 HYDROELECTRIC DEVELOPMENT DOES NOT ADVERSELY CHANGE  
9 EXISTING IMPACTS TO AN AQUATIC SYSTEM.

10 (II) MEET THE CERTIFICATION STANDARDS ESTABLISHED BY  
11 THE LOW IMPACT HYDROPOWER INSTITUTE AND AMERICAN RIVERS,  
12 INC.

13 (III) PROVIDE AN ADEQUATE WATER FLOW FOR PROTECTION  
14 OF AQUATIC LIFE, PROVIDE FOR SAFE AND EFFECTIVE FISH  
15 PASSAGE, PROTECT AGAINST EROSION AND PROTECT CULTURAL AND  
16 HISTORIC RESOURCES.

17 (5) HYDROELECTRIC POWER TECHNOLOGIES THAT USE WAVE,  
18 CURRENT, TIDAL AND THERMAL SYSTEMS.

19 (6) GEOTHERMAL SYSTEMS.

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

22 SECTION 4. ALTERNATIVE FUEL OR ALTERNATIVE ENERGY ENTERPRISE  
23 DESIGNATION.

24 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED WITHIN THE  
25 DEPARTMENT A PROGRAM PROVIDING FOR THE DESIGNATION OF QUALIFIED  
26 ALTERNATIVE FUEL ENTERPRISES, QUALIFIED ALTERNATIVE ENERGY  
27 ENTERPRISES AND QUALIFIED ALTERNATIVE FUEL OR HYBRID VEHICLE  
28 MANUFACTURING ENTERPRISE.

29 (B) ELIGIBILITY.--THE DEPARTMENT SHALL DEVELOP CRITERIA TO  
30 ESTABLISH ELIGIBILITY AS A QUALIFIED ALTERNATIVE ENERGY

1 ENTERPRISE, A QUALIFIED ALTERNATIVE FUEL ENTERPRISE AND A  
2 QUALIFIED ALTERNATIVE FUEL OR HYBRID VEHICLE MANUFACTURING  
3 ENTERPRISE. BUSINESSES THAT ARE QUALIFIED UNDER THIS SECTION  
4 SHALL BE ENTITLED TO THE TAX CREDITS SET FORTH IN THIS ACT FOR A  
5 PERIOD NOT TO EXCEED 15 YEARS BEGINNING WITH THE EFFECTIVE DATE  
6 OF THIS ACT.

7 SECTION 5. QUALIFIED BUSINESSES.

8 IN ORDER TO QUALIFY EACH YEAR FOR A TAX EXEMPTION, DEDUCTION,  
9 ABATEMENT OR CREDIT UNDER THIS ACT, A BUSINESS MUST BE:

10 (1) A QUALIFIED ALTERNATIVE ENERGY ENTERPRISE.

11 (2) A QUALIFIED ALTERNATIVE FUEL ENTERPRISE.

12 (3) A MANUFACTURER OF ALTERNATIVE FUEL VEHICLES,  
13 INCLUDING, BUT NOT LIMITED TO, DEDICATED ALTERNATIVE FUEL-  
14 POWERED VEHICLES OR HYBRID VEHICLES.

15 SECTION 6. STATE TAXES.

16 (A) GENERAL RULE.--A QUALIFIED BUSINESS SHALL RECEIVE THE  
17 EXEMPTIONS, DEDUCTIONS, ABATEMENTS OR CREDITS AS PROVIDED IN  
18 SECTIONS 7 AND 8 FOR THE DURATION OF THE ALTERNATIVE FUEL OR  
19 ALTERNATIVE ENERGY ENTERPRISE DESIGNATION. EXEMPTIONS,  
20 DEDUCTIONS, ABATEMENTS OR CREDITS SHALL EXPIRE ON THE DATE OF  
21 EXPIRATION REQUIRED BY THIS ACT.

22 (B) ADMINISTRATION AND REGULATIONS.--

23 (1) THE DEPARTMENT SHALL COOPERATE WITH THE DEPARTMENT  
24 OF REVENUE TO ADMINISTER THE PROVISIONS OF THIS ACT,  
25 PROMULGATE APPROPRIATE RULES, REGULATIONS AND FORMS FOR THAT  
26 PURPOSE AND MAKE SUCH DETERMINATIONS AS MAY BE REQUIRED.

27 (2) THE DEPARTMENT SHALL BE RESPONSIBLE FOR ENSURING  
28 THAT AN ELIGIBLE BUSINESS MEETS THE ESTABLISHED CRITERIA AS A  
29 QUALIFIED BUSINESS UNDER SECTION 5 AND TO ENSURE THAT THE  
30 COSTS FOR WHICH A TAX CREDIT ARE BEING SOUGHT MEET THE

1 ESTABLISHED ELIGIBILITY CRITERIA.

2 (3) THE DEPARTMENT OF REVENUE SHALL ADMINISTER, CONSTRUE  
3 AND ENFORCE THE PROVISIONS OF THIS SECTION AND SECTIONS 7 AND  
4 8 IN CONJUNCTION WITH ARTICLES II, III, IV AND VI OF THE TAX  
5 REFORM CODE OF 1971.

6 SECTION 7. SALES AND USE TAX EXEMPTION.

7 ELECTRICITY GENERATED BY A QUALIFIED BUSINESS AT ITS FACILITY  
8 INSTALLED AFTER THE EFFECTIVE DATE OF THIS ACT AND EITHER SOLD  
9 AT WHOLESALE OR AT RETAIL OR CONSUMED BY THE QUALIFIED BUSINESS  
10 SHALL BE EXEMPT FROM THE SALES AND USE TAX IMPOSED UNDER ARTICLE  
11 II OF THE TAX REFORM CODE OF 1971 FOR A PERIOD NOT TO EXCEED  
12 FIVE YEARS FROM THE EFFECTIVE DATE OF THIS ACT.

13 SECTION 8. RENEWABLE ENERGY INVESTMENT TAX CREDIT.

14 (A) GENERAL RULE.--A QUALIFIED BUSINESS AS DESCRIBED IN  
15 SECTION 5 SHALL BE ELIGIBLE UNDER ARTICLES III, IV AND VI OF THE  
16 TAX REFORM CODE OF 1971 FOR A RENEWABLE ENERGY INVESTMENT TAX  
17 CREDIT EQUAL TO 30% OF THE COST OF CAPITAL EQUIPMENT DIRECTLY  
18 RELATED TO THE ACTIVITIES USED IN A QUALIFIED ALTERNATIVE ENERGY  
19 ENTERPRISE, QUALIFIED ALTERNATIVE FUEL ENTERPRISE OR QUALIFIED  
20 MANUFACTURER OF ALTERNATIVE FUEL OR HYBRID VEHICLES.

21 (B) APPLICABLE TAXES.--THE RENEWABLE ENERGY INVESTMENT TAX  
22 CREDIT AUTHORIZED BY THIS SECTION MAY BE APPLIED AGAINST ANY TAX  
23 DUE UNDER ARTICLES III, IV AND VI OF THE TAX REFORM CODE OF  
24 1971.

25 (C) AUTHORIZATION.--

26 (1) A QUALIFIED BUSINESS ENTITY MAY APPLY FOR A  
27 RENEWABLE ENERGY INVESTMENT TAX CREDIT AS PROVIDED IN THIS  
28 SECTION. BY SEPTEMBER 15, A QUALIFIED BUSINESS ENTITY MUST  
29 SUBMIT AN APPLICATION TO THE DEPARTMENT FOR QUALIFIED EXPENSE  
30 INCURRED IN THE TAXABLE YEAR THAT ENDED IN THE PRIOR CALENDAR

1 YEAR.

2 (2) A QUALIFIED BUSINESS ENTITY THAT IS QUALIFIED UNDER  
3 SUBSECTION (A) SHALL RECEIVE A RENEWABLE ENERGY INVESTMENT  
4 TAX CREDIT FOR THE TAXABLE YEAR IN THE AMOUNT OF 30% OF THE  
5 COST OF CAPITAL EQUIPMENT PURCHASED FOR USE BY THE QUALIFIED  
6 BUSINESS ENTITY DEEMED ELIGIBLE UNDER THE REGULATIONS  
7 ESTABLISHED BY THE DEPARTMENT UNDER SECTION 6.

8 (3) BY DECEMBER 15 OF THE CALENDAR YEAR FOLLOWING THE  
9 CLOSE OF THE TAXABLE YEAR DURING WHICH THE QUALIFIED EXPENSE  
10 WAS INCURRED, THE DEPARTMENT SHALL NOTIFY THE QUALIFIED  
11 BUSINESS ENTITY OF THE AMOUNT OF THE QUALIFIED BUSINESS  
12 ENTITY'S RENEWABLE ENERGY INVESTMENT TAX CREDIT APPROVED BY  
13 THE DEPARTMENT.

14 (D) CARRYOVER.--

15 (1) THE AMOUNT OF THE RENEWABLE ENERGY INVESTMENT TAX  
16 CREDIT THAT A QUALIFIED BUSINESS ENTITY MAY USE AGAINST ANY  
17 TAX UNDER ARTICLE III, IV OR VI OF THE TAX REFORM CODE OF  
18 1971 DURING ANY YEAR MAY NOT EXCEED 30% OF THE QUALIFIED TAX  
19 LIABILITY FOR THAT TAXABLE YEAR. IF THE QUALIFIED BUSINESS  
20 ENTITY CANNOT USE THE ENTIRE AMOUNT OF THE RENEWABLE ENERGY  
21 INVESTMENT TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE  
22 INVESTMENT TAX CREDIT IS FIRST APPROVED, THE EXCESS MAY BE  
23 CARRIED OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT  
24 AGAINST ANY TAX UNDER ARTICLE III, IV OR VI OF THE TAX REFORM  
25 CODE OF 1971 OF THE QUALIFIED BUSINESS ENTITY FOR THOSE  
26 TAXABLE YEARS.

27 (2) EACH TIME THAT THE RENEWABLE ENERGY INVESTMENT TAX  
28 CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE YEAR, IT SHALL  
29 BE REDUCED BY THE AMOUNT THAT WAS USED AS A CREDIT DURING THE  
30 IMMEDIATELY PRECEDING TAXABLE YEAR. THE RENEWABLE ENERGY

1 INVESTMENT TAX CREDIT MAY BE CARRIED OVER AND APPLIED TO  
2 SUCCEEDING TAXABLE YEARS FOR NO MORE THAN 15 TAXABLE YEARS  
3 FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE QUALIFIED  
4 BUSINESS ENTITY WAS ENTITLED TO CLAIM THE CREDIT.

5 (3) A RENEWABLE ENERGY INVESTMENT TAX CREDIT APPROVED BY  
6 THE DEPARTMENT FOR A QUALIFIED EXPENSE IN A TAXABLE YEAR  
7 FIRST SHALL BE APPLIED AGAINST THE QUALIFIED BUSINESS  
8 ENTITY'S TAX LIABILITY FOR THE CURRENT TAXABLE YEAR AS OF THE  
9 DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE RENEWABLE  
10 ENERGY INVESTMENT TAX CREDIT IS APPLIED AGAINST ANY TAX  
11 LIABILITY UNDER SUBSECTION (A).

12 (4) A QUALIFIED BUSINESS ENTITY MAY NOT CARRY BACK,  
13 OBTAIN A REFUND OF OR ASSIGN ANY UNUSED RENEWABLE ENERGY  
14 INVESTMENT TAX CREDIT.

15 (E) LIMITATION.--THE TOTAL AMOUNT OF ALL TAX CREDITS ALLOWED  
16 UNDER THIS ACT SHALL NOT EXCEED \$30,000,000 IN ANY ONE FISCAL  
17 YEAR.

18 (F) PRORATION OF TAX CREDITS.--IF THE TOTAL AMOUNT OF  
19 RENEWABLE ENERGY INVESTMENT TAX CREDITS APPLIED FOR BY ALL  
20 QUALIFIED BUSINESS ENTITIES EXCEEDS THE AMOUNT ALLOCATED FOR  
21 THOSE CREDITS, THEN THE RENEWABLE ENERGY TAX CREDIT TO BE  
22 RECEIVED BY EACH APPLICANT SHALL BE PRORATED AMONG ALL QUALIFIED  
23 BUSINESS ENTITIES.

#### 24 SECTION 9. PENNSYLVANIA CLEAN ENERGY FUND.

25 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED A SEPARATE  
26 FUND IN THE STATE TREASURY TO BE KNOWN AS THE PENNSYLVANIA CLEAN  
27 ENERGY FUND. THE MONEYS OF THE FUND ARE APPROPRIATED ON A  
28 CONTINUING BASIS TO CARRY OUT THE PROVISIONS OF THIS ACT.

29 (B) USE.--THE FUND MAY BE USED BY THE DEPARTMENT TO PROVIDE  
30 LOANS AT OR BELOW PREVAILING INTEREST RATES AND EQUITY-LIKE



INVESTMENTS TO FINANCE OR SUPPORT:

(1) THE DEVELOPMENT OR OPERATION OF A QUALIFIED  
ALTERNATIVE ENERGY ENTERPRISE, QUALIFIED ALTERNATIVE FUEL  
ENTERPRISE OR QUALIFIED MANUFACTURER OF ALTERNATIVE FUEL OR  
HYBRID VEHICLES.

(2) THE PURCHASE AND INSTALLATION OF RENEWABLE ENERGY  
RESOURCE TECHNOLOGIES BY SCHOOL DISTRICTS, MUNICIPAL  
AUTHORITIES, POLITICAL SUBDIVISIONS, NONPROFIT ENTITIES,  
CORPORATIONS, LIMITED LIABILITY COMPANIES, PARTNERSHIPS  
INCORPORATED OR REGISTERED IN AND INDIVIDUAL RESIDENTS OF  
THIS COMMONWEALTH.

(C) PROGRAM GUIDELINES.--THE DEPARTMENT SHALL ISSUE  
GUIDELINES FOR ALL ELIGIBLE USES OF THE FUND.

SECTION 10. TRANSFER OF FUNDS.

NOTWITHSTANDING THE PROVISIONS OF 75 PA.C.S. § 7202 (RELATING  
TO ALTERNATIVE FUELS INCENTIVE GRANT FUND), THE SUM OF  
\$5,000,000 SHALL BE TRANSFERRED FROM THE ALTERNATIVE FUELS  
INCENTIVE GRANT FUND ESTABLISHED IN 75 PA.C.S. § 7202 TO THE  
PENNSYLVANIA CLEAN ENERGY FUND. THE TRANSFER SHALL OCCUR WITHIN  
60 DAYS OF THE EFFECTIVE DATE OF THIS ACT.

SECTION 11. ANNUAL REPORT.

THE DEPARTMENT SHALL ANNUALLY MAKE A REPORT TO THE  
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND  
THE ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF  
REPRESENTATIVES ON THE ACTIVITIES UNDERTAKEN PURSUANT TO THIS  
ACT. THE REPORT SHALL, AT A MINIMUM, INCLUDE INFORMATION ON:

(1) THE NUMBER AND AMOUNT OF TAX CREDITS PROVIDED.

(2) THE TYPES OF BUSINESSES RECEIVING THE CREDITS.

(3) A BREAKDOWN OF THE TAX CREDITS PROVIDED BY BUSINESS  
TYPE.

1           (4) THE NUMBER, AMOUNT AND PURPOSE OF THE LOANS PROVIDED  
2       TO ELIGIBLE ENTITIES.  
3 SECTION 12. EFFECTIVE DATE.  
4       THIS ACT SHALL TAKE EFFECT IN 60 DAYS.