

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Special Session No. 1 of
2007-2008

INTRODUCED BY M. WHITE, TOMLINSON, PILEGGI, ERICKSON, BOSCOLA,
RAFFERTY, MADIGAN, GORDNER, WOZNIAK, WAUGH, PUNT, O'PAKE,
FERLO, WONDERLING AND EICHELBERGER, OCTOBER 4, 2007

SENATOR ARMSTRONG, APPROPRIATIONS, RE-REPORTED AS AMENDED,
NOVEMBER 28, 2007

AN ACT

1 Providing for development of alternative sources of energy.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 ~~CHAPTER 1~~

<—

5 ~~PRELIMINARY PROVISIONS~~

6 ~~Section 101. Short title.~~

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

9 ~~Section 102. 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 energy production project." Includes the~~
14 ~~following:~~

15 ~~(1) A facility that utilizes waste coal, biofuel,~~
16 ~~biomass, solar power, wind energy, geothermal technologies,~~

~~clean coal technologies, waste energy technologies or other alternative energy sources as defined in the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act, to produce or distribute renewable energy.~~

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

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

~~"Authority." The Commonwealth Financing Authority established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth 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 not for profit entities.~~

~~"Clean energy project." A project which does any of the following:~~

~~(1) Replaces or supplements an existing system that utilizes nonrenewable energy with a system that utilizes renewable energy.~~

~~(2) Facilitates the installation of a renewable energy system in an existing building or in new construction or a major renovation of a building, including a green energy building.~~

~~(3) Installs energy efficient equipment.~~

~~"Department." The Department of Environmental Protection of the Commonwealth.~~

~~"Energy conservation project." Any of the following:~~

~~(1) The purchase and installation of energy efficient equipment.~~

~~(2) Energy efficient heating and cooling units.~~

~~"Energy efficient appliance." A clothes washer, dishwasher, refrigerator, freezer, room air conditioner, ventilating fan or residential light fixture which qualifies as an Energy Star product under the United States Environmental Protection Agency Energy Star Program.~~

~~"Energy efficient equipment." Equipment purchased for manufacturing or processing which is designed to utilize significantly less energy than the industry standard available at the time of purchase as determined by the department.~~

~~"Energy efficient heating and cooling equipment." Heating and cooling equipment designed to utilize significantly less energy than the industry standards as determined by the department.~~

~~"Fund." The Alternative Energy Development Fund.~~

~~"Green energy building." A building that adheres to standards adopted by the Department of General Services that optimize the energy performance of buildings.~~

~~"Pollution control technology project." The acquisition, construction or installation of pollution control technology and equipment that enables an electric generating unit or cogeneration unit to meet any of the following requirements:~~

~~(1) Mercury emission reductions under 25 Pa. Code Ch. 123 (relating to standards for contaminants).~~

~~(2) The regulations adopted by the United States Environmental Protection Agency known as the Clean Air Mercury Rule codified at 40 CFR Pts. 60 (relating to standards of performance for new stationary sources), 72~~

~~(relating to permits regulation) and 75 (relating to continuous emission monitoring).~~

~~(3) Nitrogen oxides and sulfur dioxide emission reduction under 25 Pa. Code Chs. 121 (relating to general provisions), 129 (relating to standards for sources) and 145 (relating to interstate pollution transport reduction).~~

~~(4) The Clean Air Interstate Rule in 40 C.F.R. (relating to protection of environment).~~

~~"Renewable energy system." Energy generated from alternative energy sources as defined under the act of November 30, 2004 (P.L.1672, No.213), known as the Alternative Energy Portfolio Standards Act. The term shall not include a system that is defined as a demand side management system consisting of the management of customer consumption of electricity or the demand for electricity.~~

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

~~(1) Solar or solar photovoltaic panels.~~

~~(2) Energy efficient windows and doors.~~

~~(3) Geothermal heat pumps.~~

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

~~"Site preparation project." The construction of water and sewer lines, excavation, construction of access roads and traffic control devices.~~

~~CHAPTER 3~~

~~ISSUANCE OF BONDS~~

~~Section 301. Fund.~~

~~There is established in the State Treasury a restricted receipt account to be known as the Alternative Energy~~

~~Development Fund. The fund shall include:~~

~~(1) Proceeds from bonds issued under sections 303 and 304.~~

~~(2) Earnings derived from the investment of the money in the fund.~~

~~(3) Loan repayments under this act.~~

~~(4) Any other money appropriated to the fund.~~

~~Section 302. Deposit.~~

~~Beginning in Fiscal Year 2008-2009, and each year up to and including Fiscal Year 2027-2028, the sum of \$20,000,000, or as much thereof as may be necessary of the gross receipts tax collected during each fiscal year under Article XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall be appropriated to the State Treasurer for debt service and related costs of the bond authorized under section 303.~~

~~Section 303. Borrowing authorized.~~

~~The authority is authorized and directed to utilize funds deposited under section 302 to issue a 20 year limited obligation revenue bond in an amount not exceeding in the aggregate the sum of \$250,000,000.~~

~~Section 304. Authority.~~

~~Borrowing authorized under section 303 shall be carried out in accordance with 64 Pa.C.S. (relating to public authorities and quasi public corporations).~~

~~Section 305. Purpose of bond.~~

~~Proceeds from the sale of bonds shall be used solely for the purposes under Chapter 5.~~

~~Section 306. Investment.~~

~~Proceeds shall be deposited in the fund and invested or~~

~~reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from investment on deposits shall be used for the same purposes as the proceeds realized from the sale of bonds under this chapter.~~

~~Section 307. Appropriation.~~

~~There is appropriated to the State Treasurer from the proceeds realized from the sale of bonds under this chapter as much money as may be necessary for all reasonable costs and expenses in connection with the issue, sale and registration of the bonds and costs relating to the issue, sale and registration.~~

~~CHAPTER 5~~

~~ALLOCATION OF BOND PROCEEDS~~

~~Section 501. Allocation of funds.~~

~~(a) Installments. Money in the fund established under chapter 3 shall be allocated in equal annual installments over a five year period as follows:~~

~~(1) The amount of \$12,500,000 to the Ben Franklin Technology Development Authority for allocation in accordance with section 502.~~

~~(2) The amount of \$15,000,000 to the department for grants for pollution control technology programs in accordance with section 503.~~

~~(3) The amount of \$14,000,000 to the authority for clean energy projects in accordance with section 504(c)(2).~~

~~(4) The amount of \$8,500,000 to the authority for energy conservation projects in accordance with section 504(c)(3).~~

~~(b) Total allocations. Total allocations under this section shall not exceed \$250,000,000 in the aggregate.~~

~~Section 502. Ben Franklin Technology Development Authority.~~

~~(a) Allocation of funds. Money from the fund allocated under section 501(a)(1) to the Ben Franklin Technology Development Authority shall be distributed as follows:~~

~~(1) Sixty percent shall be used for commercialization and acceleration of the development of emerging alternative or renewable energy technologies in this Commonwealth to include funding of the costs associated with capital investment, transitional research and other costs.~~

~~(2) Forty percent shall be used for venture capital for Pennsylvania start up businesses to develop or expand alternative or renewable energy technologies, including private and public projects, to include funding of the costs associated with capital investments, transitional research and other costs necessary to develop commercial spin offs and licensing agreements. A project receiving funds under this paragraph shall not receive more than \$1,500,000 during the life of the program.~~

~~(b) Guidelines. The Ben Franklin Technology Development Authority shall publish guidelines that include eligibility requirements consistent with existing guidelines of the Ben Franklin Technology Development Authority Board, including matching fund requirements. The guidelines shall be posted on its official Internet 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.~~

~~(d) Administrative costs. No more than 1% of funds allocated to the Ben Franklin Technology Development Authority~~

~~shall be used for administrative costs.~~

~~(c) Reporting. The Ben Franklin Technology Development Authority 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 be posted and maintained on its official Internet website. The report shall include a list of all funds distributed under subsection (a), the recipients of the funds, the technology to be developed and other details relating to the project.~~

~~Section 503. Pollution control technology projects.~~

~~(a) Allocation. Money from the fund allocated under section 501(a)(2) to the department for pollution control technology projects shall be utilized for grants to electric generating units or cogeneration units, as defined under 25 Pa. Code § 123.202 (relating to definitions), located in this Commonwealth.~~

~~(b) Distribution. Each electric generating unit or cogeneration unit shall be eligible to receive a pro rata share of moneys allocated for pollution control technology projects based on criteria developed by the department. The department shall publish the criteria to be used in the Pennsylvania Bulletin and shall submit the criteria to the Environmental Resources and Energy Committee of the Senate and the Environmental Resources and Energy Committee of the House of Representatives for comment and review 60 days prior to accepting a grant application under this section.~~

~~Section 504. Alternative Energy Development Program.~~

~~(a) Program. The Alternative Energy Development Program is established.~~

~~(b) Allocation of funds. Money from the fund allocated to~~

~~the authority under section 501(a)(3) and (4) shall be distributed for the projects under this section.~~

~~(c) Determination of available funds. The authority shall annually determine the amount available for distribution under this section for each of the following programs:~~

~~(1) Loans to businesses and loans or grants to political subdivisions for clean energy projects under section 501(a)(3).~~

~~(2) Loans to businesses and loans or grants to political subdivisions for energy conservation projects under section 501(a)(4).~~

~~(d) Eligibility. In order to be eligible to receive funds under this section, an applicant must provide the authority with the following:~~

~~(1) Plans and other documents that show the type, structure and character of the project.~~

~~(2) A general description of the type, classes and number of current employees and an estimate of any future employment opportunities.~~

~~(3) The cost of the project.~~

~~(4) A description of how the project will reduce the Commonwealth's reliance on nonrenewable energy.~~

~~(e) 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 renewable resources and promote economic development in this Commonwealth. The assessment shall include the following:~~

~~(1) An analysis by the Department of Community and Economic Development of the jobs that will be retained or increased by the project or other economic advantages.~~

~~(2) An analysis which shall be prepared by the department to include the following, as applicable:~~

~~(i) The manner and extent to which the project will lead to the increased use of renewable energy resources of the Commonwealth.~~

~~(ii) The manner in which the project will provide savings to Pennsylvania businesses or political subdivisions.~~

~~(iii) An analysis of the economic feasibility of the project.~~

~~(f) Distribution. Funds shall be distributed to projects approved by the authority in accordance with this chapter.~~

~~(g) Adoption of standards. The Department of General Services shall adopt standards for the certification of a green energy building under this act in order to optimize the energy performance of buildings in this Commonwealth. The standards shall:~~

~~(1) be consensus based as defined by the Office of Management and Budget, Cir. No. A 199, dated February 10, 1998;~~

~~(2) require documentation of performance; and~~

~~(3) require third party, postconstruction review and verification.~~

~~(h) Reporting. The authority 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 by October 1, 2008, and October 1 of each year thereafter. The first report shall be due in 2008. The report shall be posted and maintained on the authority's official Internet website and~~

1 ~~shall include:~~

2 ~~(1) A list of all loans and grants approved and loans~~
3 ~~repaid during the previous fiscal year, including the name~~
4 ~~and address of each recipient, the name of the chief~~
5 ~~executive officer of the recipient, the amount of the loan or~~
6 ~~grant and a detailed description of each approved project.~~

7 ~~(2) The estimated energy savings for the previous fiscal~~
8 ~~year for all projects receiving funding during that fiscal~~
9 ~~year, including an explanation of the method used to arrive~~
10 ~~at the estimated savings.~~

11 ~~(3) Recommendations regarding any potential amendments~~
12 ~~to this act to include new energy technologies that provide~~
13 ~~alternative energy sources that encourage or promote energy~~
14 ~~independence.~~

15 ~~(i) Administrative costs. No more than 1% of funds~~
16 ~~allocated under this chapter shall be used by the authority for~~
17 ~~administrative costs other than costs related to the issuance of~~
18 ~~the bond under Chapter 3.~~

19 ~~CHAPTER 7~~

20 ~~CONSUMER HOME ENERGY EFFICIENCY PROGRAM~~

21 ~~Section 701. Program.~~

22 ~~There is established in the department a consumer energy~~
23 ~~program to provide grants, reimbursement and rebates to~~
24 ~~consumers in accordance with this section.~~

25 ~~Section 702. Transfer.~~

26 ~~For each fiscal year beginning after June 30, 2008, and~~
27 ~~ending before July 1, 2015, the sum of \$20,000,000 of the gross~~
28 ~~receipts tax collected during that fiscal year under Article XI~~
29 ~~of the act of March 4, 1971 (P.L.6, No.2), known as the Tax~~
30 ~~Reform Code of 1971, shall be annually appropriated from the~~

~~General Fund to the department to provide grants, reimbursements and rebates in accordance with this chapter.~~

~~Section 703. Distribution.~~

~~Money from the fund that is not distributed under section 501 shall be allocated to the department for the consumer energy program as follows:~~

~~(1) Thirty percent of funds received under this section shall be used for reimbursement or grants to homeowners for the purchase of energy efficient heating and cooling units and energy efficient appliances within their primary residence. The following shall apply:~~

~~(i) A homeowner shall be eligible for up to 20% of the purchase and installation price.~~

~~(ii) A consumer seeking a grant or reimbursement for the purchase of an energy efficient appliance shall certify the disposal of any existing appliance.~~

~~(2) Seventy percent of the funds received by the department under this section shall be used for rebates to individuals for residential energy conservation projects. An applicant shall be eligible for up to 35% of the purchase and installation price of a residential energy conservation project. An applicant shall be eligible for up to 50% of the purchase and installation price of solar or solar photovoltaic panels manufactured in this Commonwealth.~~

~~Section 704. Application.~~

~~An individual seeking a grant, reimbursement or rebate under this chapter shall submit an application and any supporting information as required by the department.~~

~~Section 705. Guidelines.~~

~~The department shall publish guidelines in the Pennsylvania~~

~~Bulletin relating to the following:~~

~~(1) Eligibility of applicant.~~

~~(2) Types of products, appliances or heating and cooling units and residential energy conservation projects eligible under this chapter.~~

~~Section 706. 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 which shall include program guidelines, the number and category of grants and reimbursements or rebates. The report shall be posted and maintained on an official Internet website of the department. The report shall include a summary of grants and rebates awarded and other information relating to the program.~~

~~Section 707. Administrative costs.~~

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

~~CHAPTER 9~~

~~ALTERNATIVE ENERGY PRODUCTION TAX CREDIT PROGRAM~~

~~Section 901. Establishment.~~

~~There is hereby established the alternative energy production tax credit program.~~

~~Section 902. 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:~~

~~"Alternative energy production project." Includes the following:~~

~~(1) A facility that utilizes waste coal, biofuel,~~

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

6 (2) A facility that manufactures or produces products
7 that provide renewable energy.

8 (3) A facility used for the research and development of
9 technology to provide alternative or renewable energy
10 sources.

11 "Alternative energy production tax credit." The credit
12 provided for under this chapter.

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

14 "Qualified tax liability." The liability for taxes imposed
15 under Article III, IV, V or VI of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971. The term
17 does not include any tax withheld by an employer from an
18 employee under Article III.

19 "Taxpayer." An entity subject to tax under Article III, IV,
20 V or VI of the act of March 4, 1971 (P.L.6, No.2), known as the
21 Tax Reform Code of 1971.

22 Section 903. Eligible applicants.

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

~~906, a taxpayer may reapply for an alternative energy production tax credit in the following tax year and shall be given priority for the credit by the department.~~

~~Section 904. Award of tax credits.~~

~~A taxpayer that is qualified under section 903 may receive an alternative energy production tax credit for the taxable year in an amount equal to 75% of the total amount of all capital, operation and maintenance costs paid for alternative energy technologies in the taxable year to be applied against the taxpayer's qualified tax liability.~~

~~Section 905. Carryover and carryback of credit.~~

~~(a) Carryover. If the taxpayer cannot use the entire amount of the alternative energy production tax credit for the taxable year in which the alternative energy production tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the alternative energy production tax credit is carried over to a succeeding taxable year, it is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The alternative energy production tax credit provided under this 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.~~

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

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

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

~~Section 906. Limitation on tax credits.~~

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

~~Section 907. Reporting.~~

~~(a) General rule. No later than September 1 of each year, the department, in cooperation with the Department of Community and Economic Development, shall submit a report to the General Assembly summarizing the effectiveness of the tax credit provided under this chapter. The report shall include the name of each taxpayer utilizing the credit as of the date of the report and the amount of credits approved for, utilized by or sold or assigned by each taxpayer. The report may also include recommendation for changes in the calculation or administration of the tax credit. The report shall be submitted to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives. The report shall include the following information, which shall be separated by geographic location within this Commonwealth:~~

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

~~year.~~

~~(2) The number of alternative energy production projects receiving a tax credit and the dollar amount of tax credits 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.~~

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

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

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

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

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

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

~~Section 908. Termination.~~

~~The department shall not approve an alternative energy production tax credit under this chapter for taxable years ending after December 31, 2015.~~

~~Section 909. Regulations.~~

~~The department shall promulgate regulations necessary for the
implementation and administration of this chapter.~~

~~Section 910. Applicability.~~

~~The addition of this chapter shall apply to tax years
beginning after December 31, 2007.~~

~~CHAPTER 29~~

~~MISCELLANEOUS PROVISIONS~~

~~Section 2901. Effective date.~~

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

CHAPTER 1

PRELIMINARY PROVISIONS

SECTION 101. SHORT TITLE.

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

SECTION 102. 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 PRODUCTION PROJECT." EXCEPT AS PROVIDED
UNDER SECTION 702, INCLUDES THE DEVELOPMENT OR CONSTRUCTION OF
THE FOLLOWING:

(1) A FACILITY THAT UTILIZES WASTE COAL, BIOFUEL,
BIOMASS, SOLAR POWER, WIND ENERGY, GEOTHERMAL TECHNOLOGIES,
CLEAN COAL TECHNOLOGIES, WASTE ENERGY TECHNOLOGIES OR OTHER
ALTERNATIVE ENERGY SOURCES AS DEFINED IN THE ACT OF NOVEMBER
30, 2004 (P.L.1672, NO.213), KNOWN AS THE ALTERNATIVE ENERGY
PORTFOLIO STANDARDS ACT, TO PRODUCE OR DISTRIBUTE RENEWABLE
ENERGY.

(2) A FACILITY THAT MANUFACTURES OR PRODUCES PRODUCTS
THAT PROVIDE RENEWABLE ENERGY.

1 (3) A FACILITY USED FOR THE RESEARCH AND DEVELOPMENT OF
2 TECHNOLOGY TO PROVIDE ALTERNATIVE OR RENEWABLE ENERGY
3 SOURCES.

4 (4) A PROJECT FOR THE DEVELOPMENT OR ENHANCEMENT OF RAIL
5 TRANSPORTATION SYSTEMS THAT DELIVER ALTERNATIVE OR RENEWABLE
6 FUELS.

7 "AUTHORITY." THE COMMONWEALTH FINANCING AUTHORITY
8 ESTABLISHED UNDER 64 PA.C.S. CH. 15 (RELATING TO COMMONWEALTH
9 FINANCING AUTHORITY).

10 "BUSINESS." A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP,
11 LIMITED LIABILITY COMPANY, BUSINESS TRUST OR OTHER COMMERCIAL
12 ENTITY APPROVED BY THE AUTHORITY. THE TERM SHALL INCLUDE NOT-
13 FOR-PROFIT ENTITIES.

14 "CLEAN ENERGY PROJECT." A PROJECT WHICH DOES ANY OF THE
15 FOLLOWING:

16 (1) REPLACES OR SUPPLEMENTS AN EXISTING SYSTEM THAT
17 UTILIZES NONRENEWABLE ENERGY WITH A SYSTEM THAT UTILIZES
18 RENEWABLE ENERGY.

19 (2) FACILITATES THE INSTALLATION OF A RENEWABLE ENERGY
20 SYSTEM IN AN EXISTING BUILDING OR IN NEW CONSTRUCTION OR A
21 MAJOR RENOVATION OF A BUILDING, INCLUDING A GREEN ENERGY
22 BUILDING.

23 (3) INSTALLS ENERGY EFFICIENT EQUIPMENT OR ENERGY
24 EFFICIENT HEATING AND COOLING EQUIPMENT.

25 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL PROTECTION OF
26 THE COMMONWEALTH.

27 "ENERGY EFFICIENT EQUIPMENT." EQUIPMENT PURCHASED FOR
28 MANUFACTURING OR PROCESSING WHICH IS DESIGNED TO UTILIZE
29 SIGNIFICANTLY LESS ENERGY THAN THE INDUSTRY STANDARD AVAILABLE
30 AT THE TIME OF PURCHASE AS DETERMINED BY THE DEPARTMENT.

1 "ENERGY EFFICIENT HEATING AND COOLING EQUIPMENT." HEATING
2 AND COOLING EQUIPMENT DESIGNED TO UTILIZE SIGNIFICANTLY LESS
3 ENERGY THAN THE INDUSTRY STANDARDS AS DETERMINED BY THE
4 DEPARTMENT.

5 "GREEN ENERGY BUILDING." A BUILDING THAT ADHERES TO
6 STANDARDS ADOPTED BY THE DEPARTMENT OF GENERAL SERVICES THAT
7 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. (RELATING
25 TO PROTECTION OF ENVIRONMENT).

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

1 MANAGEMENT OF CUSTOMER CONSUMPTION OF ELECTRICITY OR THE DEMAND
2 FOR ELECTRICITY.

3 "RESIDENTIAL ENERGY CONSERVATION PROJECT." THE PURCHASE OR
4 INSTALLATION OF ANY OF THE FOLLOWING:

5 (1) SOLAR OR SOLAR PHOTOVOLTAIC PANELS.

6 (2) ENERGY EFFICIENT WINDOWS AND DOORS.

7 (3) GEOTHERMAL HEAT PUMPS.

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

10 (5) ENERGY EFFICIENT HEATING AND COOLING EQUIPMENT.

11 "SITE PREPARATION PROJECT." THE CONSTRUCTION OF WATER AND
12 SEWER LINES, EXCAVATION, CONSTRUCTION OF ACCESS ROADS AND
13 TRAFFIC CONTROL DEVICES.

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

16 CHAPTER 3

17 ALTERNATIVE ENERGY DEVELOPMENT PROGRAM

18 SECTION 301. PROGRAM.

19 THE ALTERNATIVE ENERGY DEVELOPMENT PROGRAM IS ESTABLISHED.
20 THE PURPOSE OF THE PROGRAM IS TO FUND PROJECTS UNDER THIS
21 CHAPTER.

22 SECTION 302. PROCEDURE.

23 (A) TRANSFER.--FOR EACH FISCAL YEAR BEGINNING AFTER JUNE 30,
24 2008, AND ENDING BEFORE JULY 1, 2033, THE SUM OF \$20,000,000, OR
25 AS MUCH THEREOF AS NECESSARY, OF THE GROSS RECEIPTS TAX
26 COLLECTED DURING THAT FISCAL YEAR UNDER ARTICLE XI OF THE TAX
27 REFORM CODE OF 1971 SHALL BE ANNUALLY TRANSFERRED FROM THE
28 GENERAL FUND IN ACCORDANCE WITH THIS CHAPTER TO THE AUTHORITY
29 FOR THE PROJECTS UNDER THIS SECTION.

30 (B) AUTHORITY.--FUNDS TRANSFERRED TO THE AUTHORITY UNDER

1 THIS SECTION MAY BE USED FOR GRANTS OR LOANS OR FOR THE PAYMENT
2 OF DEBT SERVICES FOR UP TO 20 YEARS TO BE INCURRED IN ACCORDANCE
3 WITH 64 PA.C.S. CH. 15 (RELATING TO COMMONWEALTH FINANCING
4 AUTHORITY) FOR THE AWARD OF GRANTS OR LOANS TO FUND PROJECTS
5 UNDER THIS SECTION.

6 SECTION 303. BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY.

7 (A) ALLOCATION OF FUNDS.--THE SUM OF \$3,000,000 FROM FUNDS
8 TRANSFERRED UNDER SECTION 302(A) OR FROM PROCEEDS FROM
9 INDEBTEDNESS INCURRED UNDER SECTION 302(B) SHALL BE ALLOCATED
10 AND ANNUALLY APPROPRIATED TO THE BEN FRANKLIN TECHNOLOGY
11 DEVELOPMENT AUTHORITY. THE TOTAL AGGREGATE AMOUNT TRANSFERRED
12 UNDER THIS SUBSECTION SHALL NOT EXCEED \$15,000,000. FUNDS UNDER
13 THIS SUBSECTION SHALL BE DISTRIBUTED AS FOLLOWS:

14 (1) SIXTY PERCENT OF THE FUNDS ALLOCATED UNDER THIS
15 SUBSECTION SHALL BE TRANSFERRED TO THE BEN FRANKLIN
16 TECHNOLOGY PARTNERS FOR ENERGY-RELATED INVESTMENTS TO SUPPORT
17 EARLY-STAGE ACTIVITIES, INCLUDING INCUBATOR SUPPORT SERVICES,
18 MANAGEMENT SUPPORT, TRANSLATIONAL RESEARCH, EARLY-STAGE
19 RESEARCH OF OTHER PROGRAMS OR ADMINISTRATIVE ACTIVITIES TO
20 DEVELOP AND IMPLEMENT ALTERNATIVE ENERGY TECHNOLOGIES.

21 (2) FORTY PERCENT SHALL BE USED FOR VENTURE CAPITAL FOR
22 PENNSYLVANIA START-UP BUSINESSES TO DEVELOP OR EXPAND
23 ALTERNATIVE OR RENEWABLE ENERGY TECHNOLOGIES, INCLUDING
24 PRIVATE AND PUBLIC PROJECTS, TO INCLUDE FUNDING OF THE COSTS
25 ASSOCIATED WITH CAPITAL INVESTMENTS, TRANSLATIONAL RESEARCH
26 AND OTHER COSTS NECESSARY TO DEVELOP COMMERCIAL SPIN-OFFS AND
27 LICENSING AGREEMENTS. A PROJECT RECEIVING FUNDS UNDER THIS
28 PARAGRAPH SHALL NOT RECEIVE MORE THAN \$500,000 DURING THE
29 LIFE OF THE PROGRAM.

30 (B) GUIDELINES.--FUNDS UNDER THIS SECTION SHALL BE USED IN

1 ACCORDANCE WITH GUIDELINES OF THE BEN FRANKLIN TECHNOLOGY
2 DEVELOPMENT AUTHORITY BOARD. THE GUIDELINES SHALL BE POSTED ON
3 ITS OFFICIAL INTERNET WEBSITE.

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

8 (D) ADMINISTRATIVE COSTS.--NO MORE THAN 1% OF FUNDS
9 ALLOCATED TO THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY
10 SHALL BE USED FOR ADMINISTRATIVE COSTS.

11 (E) REPORTING.--THE BEN FRANKLIN TECHNOLOGY DEVELOPMENT
12 AUTHORITY SHALL PROVIDE AN ANNUAL REPORT TO THE CHAIRMAN AND
13 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE SENATE
14 AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS
15 COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT SHALL BE
16 POSTED AND MAINTAINED ON ITS OFFICIAL INTERNET WEBSITE. THE
17 REPORT SHALL INCLUDE A LIST OF ALL FUNDS DISTRIBUTED UNDER
18 SUBSECTION (A), THE RECIPIENTS OF THE FUNDS, THE TECHNOLOGY TO
19 BE DEVELOPED AND OTHER DETAILS RELATING TO THE PROJECT.

20 SECTION 304. POLLUTION CONTROL TECHNOLOGY PROJECTS.

21 (A) ALLOCATION.--THE SUM OF \$5,000,000 FROM FUNDS
22 TRANSFERRED UNDER SECTION 302(A) OR FROM PROCEEDS FROM
23 INDEBTEDNESS INCURRED UNDER SECTION 302(B) SHALL BE ALLOCATED
24 AND ANNUALLY APPROPRIATED TO THE DEPARTMENT FOR POLLUTION
25 CONTROL TECHNOLOGY PROJECTS WHICH SHALL BE UTILIZED FOR GRANTS
26 TO ELECTRIC GENERATING UNITS OR COGENERATION UNITS, AS DEFINED
27 UNDER 25 PA. CODE § 123.202 (RELATING TO DEFINITIONS), THAT
28 UTILIZE COAL, AS DEFINED UNDER 25 PA. CODE § 123.202, AS THEIR
29 PRIMARY FUEL SOURCE, AND THAT HAVE AN INSTALLED CAPACITY OF LESS
30 THAN 500 MEGAWATTS, LOCATED IN THIS COMMONWEALTH. THE TOTAL

1 AGGREGATE AMOUNT TRANSFERRED UNDER THIS SUBSECTION SHALL NOT
2 EXCEED \$25,000,000.

3 (B) DISTRIBUTION.--EACH ELECTRIC GENERATING UNIT OR
4 COGENERATION UNIT SHALL BE ELIGIBLE TO RECEIVE A PRO RATA SHARE
5 OF MONEYS ALLOCATED FOR POLLUTION CONTROL TECHNOLOGY PROJECTS
6 BASED ON CRITERIA DEVELOPED BY THE DEPARTMENT. THE DEPARTMENT
7 SHALL PUBLISH THE CRITERIA TO BE USED IN THE PENNSYLVANIA
8 BULLETIN AND SHALL SUBMIT THE CRITERIA TO THE ENVIRONMENTAL
9 RESOURCES AND ENERGY COMMITTEE OF THE SENATE AND THE
10 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE OF THE HOUSE OF
11 REPRESENTATIVES FOR COMMENT AND REVIEW 60 DAYS PRIOR TO
12 ACCEPTING A GRANT APPLICATION UNDER THIS SECTION.

13 SECTION 305. DISTRIBUTION OF TRANSFERS OR PROCEEDS.

14 (A) DETERMINATION.--FUNDS NOT DISTRIBUTED UNDER SECTIONS 303
15 AND 304 SHALL BE USED BY THE AUTHORITY FOR GRANTS OR LOANS FOR
16 THE FOLLOWING PROGRAMS:

17 (1) LOANS TO BUSINESSES AND LOANS OR GRANTS TO POLITICAL
18 SUBDIVISIONS FOR CLEAN ENERGY PROJECTS.

19 (2) LOANS AND GRANTS TO BUSINESSES FOR ALTERNATIVE
20 ENERGY PRODUCTION PROJECTS.

21 (B) ELIGIBILITY.--IN ORDER TO BE ELIGIBLE TO RECEIVE FUNDS
22 UNDER THIS SECTION, AN APPLICANT MUST PROVIDE THE AUTHORITY WITH
23 THE FOLLOWING:

24 (1) PLANS AND OTHER DOCUMENTS THAT SHOW THE TYPE,
25 STRUCTURE AND CHARACTER OF THE PROJECT.

26 (2) A GENERAL DESCRIPTION OF THE TYPE, CLASSES AND
27 NUMBER OF CURRENT EMPLOYEES AND AN ESTIMATE OF ANY FUTURE
28 EMPLOYMENT OPPORTUNITIES.

29 (3) THE COST OF THE PROJECT.

30 (4) A DESCRIPTION OF HOW THE PROJECT WILL REDUCE THE

COMMONWEALTH'S RELIANCE ON NONRENEWABLE ENERGY.

(C) ELIGIBILITY OF ALTERNATIVE ENERGY PRODUCTION PROJECT.--
IN ORDER TO BE ELIGIBLE FOR FUNDING UNDER THIS CHAPTER OR
CHAPTER 7, AN ALTERNATIVE ENERGY PRODUCTION PROJECT SHALL HAVE A
USEFUL LIFE OF AT LEAST FOUR YEARS AND SHALL BE LOCATED IN THIS
COMMONWEALTH.

(D) 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 RENEWABLE ENERGY AND
PROMOTE ENERGY CONSERVATION IN THIS COMMONWEALTH.

(E) ADOPTION OF STANDARDS.--THE DEPARTMENT OF GENERAL
SERVICES SHALL ADOPT STANDARDS TO RECEIVE THE CERTIFICATION OF A
GREEN ENERGY BUILDING UNDER THIS ACT IN ORDER TO OPTIMIZE THE
ENERGY PERFORMANCE OF BUILDINGS IN THIS COMMONWEALTH. THE
STANDARDS SHALL INCLUDE ALL OF THE FOLLOWING:

(1) BE CONSENSUS-BASED AS DEFINED BY THE OFFICE OF
MANAGEMENT AND BUDGET, CIR. NO. A-199, DATED FEBRUARY 10,
1998.

(2) REQUIRE DOCUMENTATION OF PERFORMANCE.

(3) REQUIRE THIRD PARTY, POSTCONSTRUCTION REVIEW AND
VERIFICATION.

(4) INCLUDE PERFORMANCE-BASED CRITERIA THAT PROMOTES
ENERGY PERFORMANCE AND ENVIRONMENTAL QUALITY AND OTHER
CRITERIA DEEMED APPROPRIATE BY THE DEPARTMENT.

(F) REPORTING.--THE AUTHORITY 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
BY OCTOBER 1, 2008, AND OCTOBER 1 OF EACH YEAR THEREAFTER. THE
FIRST REPORT SHALL BE DUE IN 2008. THE REPORT SHALL BE POSTED

1 AND MAINTAINED ON THE AUTHORITY'S OFFICIAL INTERNET WEBSITE AND
2 SHALL INCLUDE:

3 (1) A LIST OF ALL LOANS AND GRANTS APPROVED AND LOANS
4 REPAYED DURING THE PREVIOUS FISCAL YEAR, INCLUDING THE NAME
5 AND ADDRESS OF EACH RECIPIENT, THE NAME OF THE CHIEF
6 EXECUTIVE OFFICER OF THE RECIPIENT, THE AMOUNT OF THE LOAN OR
7 GRANT AND A DETAILED DESCRIPTION OF EACH APPROVED PROJECT.

8 (2) THE ESTIMATED CURRENT OR FUTURE ENERGY SAVINGS FOR
9 THE PREVIOUS FISCAL YEAR FOR ALL PROJECTS RECEIVING FUNDING
10 DURING THAT FISCAL YEAR, INCLUDING AN EXPLANATION OF THE
11 METHOD USED TO ARRIVE AT THE ESTIMATED SAVINGS.

12 (3) RECOMMENDATIONS REGARDING ANY POTENTIAL AMENDMENTS
13 TO THIS ACT TO INCLUDE NEW ENERGY TECHNOLOGIES THAT PROVIDE
14 ALTERNATIVE ENERGY SOURCES THAT ENCOURAGE OR PROMOTE ENERGY
15 INDEPENDENCE.

16 (G) ADMINISTRATIVE COSTS.--NO MORE THAN 1% OF FUNDS
17 ALLOCATED UNDER THIS SECTION SHALL BE USED BY THE AUTHORITY FOR
18 ADMINISTRATIVE COSTS OTHER THAN COSTS RELATED TO THE ISSUANCE OF
19 INDEBTEDNESS UNDER SECTION 305(A).

20 CHAPTER 5

21 CONSUMER HOME ENERGY EFFICIENCY PROGRAM
22 SECTION 501. PROGRAM.

23 THERE IS ESTABLISHED IN THE DEPARTMENT A CONSUMER ENERGY
24 PROGRAM TO PROVIDE GRANTS, REIMBURSEMENT AND REBATES TO
25 CONSUMERS IN ACCORDANCE WITH THIS CHAPTER.

26 SECTION 502. TRANSFER.

27 FOR EACH FISCAL YEAR BEGINNING AFTER JUNE 30, 2008, AND
28 ENDING BEFORE JULY 1, 2018, THE SUM OF \$20,000,000 OF THE GROSS
29 RECEIPTS TAX COLLECTED DURING THAT FISCAL YEAR UNDER ARTICLE XI
30 OF THE TAX REFORM CODE OF 1971, SHALL BE ANNUALLY TRANSFERRED

1 FROM THE GENERAL FUND AND APPROPRIATED TO THE DEPARTMENT TO
2 PROVIDE GRANTS, REIMBURSEMENTS AND REBATES IN ACCORDANCE WITH
3 THIS CHAPTER.

4 SECTION 503. DISTRIBUTION.

5 MONEY TRANSFERRED UNDER SECTION 502 SHALL BE USED BY THE
6 DEPARTMENT FOR THE CONSUMER ENERGY PROGRAM AS FOLLOWS:

7 (1) FIFTY PERCENT OF FUNDS RECEIVED ANNUALLY UNDER THIS
8 SECTION SHALL BE DEPOSITED INTO THE EMERGENCY ENERGY
9 ASSISTANCE FUND. FUNDS DEPOSITED UNDER THIS PARAGRAPH SHALL
10 BE ADMINISTERED BY THE DEPARTMENT OF PUBLIC WELFARE FOR
11 STATE-FUNDED EMERGENCY ENERGY ASSISTANCE WHEN ALL OF THE
12 FOLLOWING OCCUR:

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

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

27 (2) FIFTY PERCENT OF THE FUNDS RECEIVED BY THE
28 DEPARTMENT UNDER THIS SECTION SHALL BE USED FOR GRANTS,
29 REIMBURSEMENTS OR REBATES TO INDIVIDUALS FOR RESIDENTIAL
30 ENERGY CONSERVATION PROJECTS. AN APPLICANT SHALL BE ELIGIBLE

FOR UP TO 35% OF THE PURCHASE AND INSTALLATION PRICE OF A
RESIDENTIAL ENERGY CONSERVATION PROJECT.

SECTION 504. APPLICATION.

AN INDIVIDUAL SEEKING A GRANT, REIMBURSEMENT OR REBATE UNDER
SECTION 503(2) SHALL SUBMIT AN APPLICATION AND ANY SUPPORTING
INFORMATION AS REQUIRED BY THE DEPARTMENT.

SECTION 505. GUIDELINES.

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

(1) ELIGIBILITY OF APPLICANT.

(2) TYPES OF PRODUCTS AND RESIDENTIAL ENERGY
CONSERVATION PROJECTS ELIGIBLE UNDER THIS CHAPTER.

SECTION 506. 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 WHICH
SHALL INCLUDE PROGRAM GUIDELINES, THE NUMBER AND CATEGORY OF
GRANTS AND REIMBURSEMENTS OR REBATES. THE REPORT SHALL BE POSTED
AND MAINTAINED ON AN OFFICIAL INTERNET WEBSITE OF THE
DEPARTMENT. THE REPORT SHALL INCLUDE A SUMMARY OF GRANTS AND
REBATES AWARDED AND OTHER INFORMATION RELATING TO THE PROGRAM.

SECTION 507. ADMINISTRATIVE COSTS.

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

CHAPTER 7

ALTERNATIVE ENERGY PRODUCTION TAX CREDIT PROGRAM

SECTION 701. ESTABLISHMENT.

THERE IS ESTABLISHED THE ALTERNATIVE ENERGY PRODUCTION TAX
CREDIT PROGRAM.

1 SECTION 702. DEFINITIONS.

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

5 "ALTERNATIVE ENERGY PRODUCTION PROJECT." INCLUDES THE
6 FOLLOWING:

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

13 (2) A FACILITY THAT MANUFACTURES OR PRODUCES PRODUCTS
14 THAT PROVIDE RENEWABLE ENERGY.

15 (3) A FACILITY USED FOR THE RESEARCH AND DEVELOPMENT OF
16 TECHNOLOGY TO PROVIDE ALTERNATIVE OR RENEWABLE ENERGY
17 SOURCES.

18 (4) A PROJECT FOR THE DEVELOPMENT OR ENHANCEMENT OF RAIL
19 TRANSPORTATION SYSTEMS THAT DELIVER ALTERNATIVE OR RENEWABLE
20 FUELS.

21 "ALTERNATIVE ENERGY PRODUCTION TAX CREDIT." THE CREDIT
22 PROVIDED FOR UNDER THIS CHAPTER.

23 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED UNDER
24 SECTION 301(N.0) OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),
25 KNOWN AS THE TAX REFORM CODE OF 1971, OR A PENNSYLVANIA S
26 CORPORATION AS DEFINED UNDER SECTION 301(N.1) OF THE TAX REFORM
27 CODE OF 1971.

28 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
29 UNDER ARTICLE III, IV OR VI OF THE ACT OF MARCH 4, 1971 (P.L.6,
30 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971. THE TERM DOES NOT

1 INCLUDE ANY TAX WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER
2 ARTICLE III.

3 "TAXPAYER." AN ENTITY SUBJECT TO TAX UNDER ARTICLE III, IV
4 OR VI OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE
5 TAX REFORM CODE OF 1971. THE TERM SHALL INCLUDE THE SHAREHOLDER
6 OF A PENNSYLVANIA S CORPORATION THAT RECEIVES AN ALTERNATIVE
7 ENERGY PRODUCTION TAX CREDIT.

8 SECTION 703. ELIGIBLE APPLICANTS.

9 A TAXPAYER WHO DEVELOPS OR CONSTRUCTS AN ALTERNATIVE ENERGY
10 PRODUCTION PROJECT MAY APPLY FOR AN ALTERNATIVE ENERGY
11 PRODUCTION TAX CREDIT AS PROVIDED UNDER THIS CHAPTER. BY
12 FEBRUARY 1 OF EACH YEAR, A TAXPAYER MUST SUBMIT AN APPLICATION
13 TO THE DEPARTMENT OF REVENUE FOR THE AMOUNT OF THE INVESTMENT IN
14 AN ALTERNATIVE ENERGY PRODUCTION PROJECT THAT WAS MADE IN THE
15 TAXABLE YEAR THAT ENDED IN THE PRIOR CALENDAR YEAR.

16 SECTION 704. AWARD OF TAX CREDITS.

17 (A) QUALIFICATION.--A TAXPAYER THAT IS ELIGIBLE UNDER
18 SECTION 703 SHALL RECEIVE AN ALTERNATIVE ENERGY PRODUCTION TAX
19 CREDIT FOR THE TAXABLE YEAR IN AN AMOUNT EQUAL TO 75% OF THE
20 TOTAL AMOUNT OF ALL DEVELOPMENT, EQUIPMENT AND CONSTRUCTION
21 COSTS PAID FOR ALTERNATIVE ENERGY PRODUCTION PROJECTS IN THE
22 TAXABLE YEAR TO BE APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX
23 LIABILITY.

24 (B) NOTIFICATION.--BY DECEMBER 15 OF THE CALENDAR YEAR
25 FOLLOWING THE CLOSE OF THE TAXABLE YEAR DURING WHICH THE
26 INVESTMENT IN AN ALTERNATIVE ENERGY PRODUCTION PROJECT WAS MADE,
27 THE DEPARTMENT SHALL NOTIFY THE TAXPAYER OF THE AMOUNT OF THE
28 TAXPAYER'S ALTERNATIVE ENERGY PRODUCTION TAX CREDIT APPROVED BY
29 THE DEPARTMENT.

30 SECTION 705. CARRYOVER, REFUND, ASSIGNMENT AND CARRYBACK OF

1 CREDIT.

2 (A) CARRYOVER.--IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT
3 OF THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT FOR THE TAXABLE
4 YEAR IN WHICH THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT IS
5 FIRST APPROVED, THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING
6 TAXABLE YEARS AND USED AS A CREDIT AGAINST THE QUALIFIED TAX
7 LIABILITY OF THE TAXPAYER FOR THOSE TAXABLE YEARS. EACH TIME
8 THAT THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT IS CARRIED
9 OVER TO A SUCCEEDING TAXABLE YEAR, IT IS TO BE REDUCED BY THE
10 AMOUNT THAT WAS USED AS A CREDIT DURING THE IMMEDIATELY
11 PRECEDING TAXABLE YEAR. THE ALTERNATIVE ENERGY PRODUCTION TAX
12 CREDIT PROVIDED UNDER THIS CHAPTER MAY BE CARRIED OVER AND
13 APPLIED TO SUCCEEDING TAXABLE YEARS FOR NO MORE THAN FIVE
14 TAXABLE YEARS FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE
15 TAXPAYER WAS ENTITLED TO CLAIM THE CREDIT.

16 (B) APPLICATION.--AN ALTERNATIVE ENERGY PRODUCTION TAX
17 CREDIT APPROVED BY THE DEPARTMENT OF REVENUE IN A TAXABLE YEAR
18 FIRST SHALL BE APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX
19 LIABILITY FOR THE CURRENT TAXABLE YEAR AS OF THE DATE ON WHICH
20 THE CREDIT WAS APPROVED BEFORE THE ALTERNATIVE ENERGY PRODUCTION
21 TAX CREDIT IS APPLIED AGAINST ANY TAX LIABILITY UNDER SUBSECTION
22 (A).

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

26 (D) SALE OR ASSIGNMENT.--A TAXPAYER, UPON APPLICATION TO AND
27 APPROVAL BY THE DEPARTMENT OF REVENUE, MAY SELL OR ASSIGN, IN
28 WHOLE OR IN PART, AN ALTERNATIVE ENERGY PRODUCTION PROJECT TAX
29 CREDIT GRANTED TO THE TAXPAYER UNDER THIS CHAPTER IF NO CLAIM
30 FOR ALLOWANCE OF THE CREDIT IS FILED WITHIN ONE YEAR FROM THE

1 DATE THE CREDIT IS APPROVED BY THE DEPARTMENT UNDER THIS ACT.
2 THE DEPARTMENT OF REVENUE SHALL ESTABLISH GUIDELINES FOR THE
3 APPROVAL OF APPLICATIONS UNDER THIS SUBSECTION.

4 SECTION 706. LIMITATION ON TAX CREDITS.

5 (A) TOTAL.--THE TOTAL AMOUNT OF CREDITS APPROVED BY THE
6 DEPARTMENT OF REVENUE SHALL NOT EXCEED \$20,000,000 IN ANY FISCAL
7 YEAR.

8 (B) FORMULA.--IF THE TOTAL AMOUNT OF ALTERNATIVE ENERGY
9 PRODUCTION TAX CREDITS APPLIED FOR BY ALL TAXPAYERS EXCEEDS THE
10 AMOUNT ALLOCATED FOR THOSE CREDITS, THEN THE ALTERNATIVE ENERGY
11 PRODUCTION TAX CREDIT TO BE RECEIVED BY EACH APPLICANT SHALL BE
12 THE PRODUCT OF THE ALLOCATED AMOUNT MULTIPLIED BY THE QUOTIENT
13 OF THE ALTERNATIVE ENERGY PRODUCTION TAX CREDIT APPLIED FOR BY
14 THE APPLICANT DIVIDED BY THE TOTAL OF ALL ALTERNATIVE ENERGY
15 PRODUCTION TAX CREDITS APPLIED FOR BY ALL APPLICANTS, THE
16 ALGEBRAIC EQUIVALENT OF WHICH IS:

17 TAXPAYER'S ALTERNATIVE ENERGY PRODUCTION TAX CREDIT =
18 AMOUNT ALLOCATED FOR THOSE CREDITS X (ALTERNATIVE ENERGY
19 PRODUCTION TAX CREDIT APPLIED FOR BY THE APPLICANT/TOTAL
20 OF ALL ALTERNATIVE ENERGY PRODUCTION TAX CREDITS APPLIED
21 FOR BY ALL APPLICANTS).

22 SECTION 707. PASS-THROUGH ENTITY.

23 (A) UNUSED CREDIT.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
24 TAX CREDIT UNDER SECTION 705, THE ENTITY MAY ELECT, IN WRITING,
25 ACCORDING TO THE DEPARTMENT'S PROCEDURES, TO TRANSFER ALL OR A
26 PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS IN
27 PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME TO
28 WHICH THE SHAREHOLDER, MEMBER OR PARTNER IS ENTITLED.

29 (B) ADDITIONAL CREDIT.--THE CREDIT PROVIDED UNDER SUBSECTION
30 (A) IS IN ADDITION TO ANY ALTERNATIVE ENERGY PRODUCTION TAX

1 CREDIT TO WHICH A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-
2 THROUGH ENTITY IS OTHERWISE ENTITLED UNDER THIS CHAPTER. A PASS-
3 THROUGH ENTITY AND A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-
4 THROUGH ENTITY MAY NOT CLAIM A CREDIT UNDER THIS CHAPTER FOR THE
5 SAME ALTERNATIVE ENERGY PRODUCTION INVESTMENT.

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

12 SECTION 708. REPORTING.

13 (A) GENERAL RULE.--NO LATER THAN SEPTEMBER 1 OF EACH YEAR,
14 THE DEPARTMENT OF REVENUE, IN COOPERATION WITH THE DEPARTMENT
15 AND THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, SHALL
16 SUBMIT A REPORT TO THE GENERAL ASSEMBLY SUMMARIZING THE
17 EFFECTIVENESS OF THE TAX CREDIT PROVIDED UNDER THIS CHAPTER. THE
18 REPORT SHALL INCLUDE THE NAME OF EACH TAXPAYER UTILIZING THE
19 CREDIT AS OF THE DATE OF THE REPORT AND THE AMOUNT OF CREDITS
20 APPROVED FOR OR UTILIZED BY EACH TAXPAYER. THE REPORT MAY ALSO
21 INCLUDE RECOMMENDATION FOR CHANGES IN THE CALCULATION OR
22 ADMINISTRATION OF THE TAX CREDIT. THE REPORT SHALL BE SUBMITTED
23 TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS
24 COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY CHAIRMAN OF
25 THE FINANCE COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY
26 CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF
27 REPRESENTATIVES AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
28 FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT
29 SHALL INCLUDE THE FOLLOWING INFORMATION, WHICH SHALL BE
30 SEPARATED BY GEOGRAPHIC LOCATION WITHIN THIS COMMONWEALTH:

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

(2) THE NUMBER OF ALTERNATIVE ENERGY PRODUCTION PROJECTS RECEIVING A TAX CREDIT AND THE DOLLAR AMOUNT OF TAX CREDITS 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.

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

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

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

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

(1) INFORMATION IN THE REPORT UNDER SUBSECTION (A) WHICH SHALL BE POSTED ON THE DEPARTMENT OF REVENUE'S AND THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT'S INTERNET WEBSITE.

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

SECTION 709. TERMINATION.

THE DEPARTMENT OF REVENUE SHALL NOT APPROVE AN ALTERNATIVE ENERGY PRODUCTION TAX CREDIT UNDER THIS CHAPTER FOR TAXABLE

1 YEARS ENDING AFTER DECEMBER 31, 2017.

2 SECTION 710. REGULATIONS.

3 THE DEPARTMENT OF REVENUE SHALL PROMULGATE REGULATIONS
4 NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS
5 CHAPTER.

6 SECTION 711. APPLICABILITY.

7 THE ADDITION OF THIS CHAPTER SHALL APPLY TO TAX YEARS
8 BEGINNING AFTER DECEMBER 31, 2007.

9 CHAPTER 29

10 MISCELLANEOUS PROVISIONS

11 SECTION 2901. EFFECTIVE DATE.

12 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.