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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 24

Special Session No. 1 of  
2007-2008

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INTRODUCED BY GORDNER, SCARNATI, McILHINNEY, PIPPY, RHOADES,  
EICHELBERGER, BOSCOLA, ERICKSON, DINNIMAN, FOLMER, O'PAKE,  
GREENLEAF, TARTAGLIONE, WAUGH, COSTA, WONDERLING, STACK,  
D. WHITE, RAFFERTY AND ROBBINS, OCTOBER 16, 2007

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REFERRED TO ENERGY POLICIES, OCTOBER 16, 2007

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AN ACT

1 Authorizing certain tax credits for qualified alternative fuel  
2 distributors; and imposing powers and duties on the  
3 Department of Revenue.

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 Deployment Act.

9 Section 2. Legislative findings.

10 The General Assembly finds and declares that:

11 (1) There is an increasing need for the development and  
12 deployment of alternative forms of transportation fuels.

13 (2) It is the intent of this act to assist in the  
14 establishment of a balanced portfolio of renewable energy  
15 technologies while adopting a strategy to fulfill the  
16 Commonwealth's long-term needs and goals for both energy and  
17 the environment.

(3) It is the intent of this act to encourage the deployment of alternative fuels to the greatest extent practical throughout this Commonwealth and to provide incentives to businesses to encourage greater availability of these fuels to the motoring public.

### 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 fuel." A motor vehicle fuel that, when compared to conventional or reformulated gasoline, results in lower emissions of oxides of nitrogen (NO<sub>x</sub>), 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 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). The term shall also include biofuels.

"Biofuel." A fuel derived from alcohol, ether, ester and other chemicals made from cellulosic biomass, including, but not limited to, herbaceous and woody plants and agricultural and forestry residues. This term also includes a fuel derived from vegetable oils or animal fats designated B100 that meets the American Society of Testing and Materials Specification DG751, and B20, and that is comprised of 20% biodiesel with 80% diesel

1 fuel.

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

3 "Pass-through entity." A partnership as defined in section  
4 301 (n.0) or a Pennsylvania S corporation as defined in section  
5 301(n.1) of the act of March 4, 1971 (P.L.6, No.2), known as the  
6 Tax Reform Code of 1971.

7 "Person." An individual resident of this Commonwealth.

8 "Qualified alternative fuel distribution expense." The cost  
9 of capital equipment directly related to the distribution,  
10 dispensing or storing of alternative fuel.

11 "Qualified alternative fuel distributor." A commercial  
12 facility that distributes or dispenses alternative fuel to the  
13 motoring public.

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

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

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

24 "Taxpayer." An entity subject to tax under Article III, IV  
25 or VI of the act of March 4, 1971 (P.L.6, No.2), known as the  
26 Tax Reform Code of 1971. The term includes a shareholder of a  
27 Pennsylvania S corporation.

28 Section 4. Establishment of program.

29 (a) General rule.--A qualified business shall be eligible to  
30 receive the tax credit authorized under section 5.

1 (b) Administration and regulations.--The department shall  
2 administer this act and cooperate with the Department of  
3 Environmental Protection. The Department of Environmental  
4 Protection shall provide assistance to the department in  
5 identifying specific types of alternative fuel and the  
6 appropriate alternative fuel dispensing, deployment and storage  
7 equipment and in providing other information that may be  
8 necessary to ensure the proper administration of this act.

9 (c) Qualified alternative fuel distributor designation.--The  
10 regulations established by the department shall provide for the  
11 designation of a qualified alternative fuel distributor. The  
12 department shall, in cooperation with the Department of  
13 Environmental Protection, develop criteria to establish  
14 eligibility as a qualified alternative fuel distributor. The  
15 criteria shall include, but not be limited to, a provision  
16 mandating that equipment used to store, dispense or distribute  
17 alternative fuel be clearly identified as associated with  
18 renewable fuel.

19 Section 5. Credit for qualified alternative fuel distribution  
20 expense.

21 (a) General rule.--A qualified alternative fuel distributor  
22 who incurs a qualified alternative fuel distribution expense in  
23 a calendar year may apply for a tax credit as provided in this  
24 section. The tax credit shall be limited to the cost of the  
25 capital equipment including pumps, storage tanks and related  
26 equipment used to store, distribute or dispense the alternative  
27 fuel. A business that is qualified under this section shall be  
28 eligible for an alternative fuel distributor tax credit  
29 authorized under this act. By September 15, a qualified  
30 alternative fuel distributor must submit an application to the

1 department for qualified expenses incurred in the prior calendar  
2 year.

3 (b) Amount.--A qualified business shall be eligible under  
4 Article III, IV and VI of the Tax Reform Code of 1971 for an  
5 alternative fuel distribution tax credit equal to 30% of a  
6 qualified alternative fuel distribution expense.

7 (c) Notification to taxpayer.--By December 15 of the  
8 calendar year following the close of the taxable year during  
9 which a qualified alternative fuel distributor expense was  
10 incurred, the department shall notify the qualified alternative  
11 fuel distributor of the amount of the qualified alternative fuel  
12 distributor's tax credit approved by the department.

13 (d) Limitations on tax credits.--A taxpayer shall be subject  
14 to the following limitations in the application of the tax  
15 credits:

16 (1) A qualified alternative fuel distributor shall  
17 receive the tax credits for a period not to exceed two years  
18 beginning with the taxable year in which the alternative fuel  
19 dispensing equipment was placed in service. The credits shall  
20 expire on the date of expiration required by this act.

21 (2) The tax credit shall be limited to the cost of the  
22 capital equipment, including pumps, storage tanks and related  
23 equipment used to store, distribute or dispense the  
24 alternative fuel.

25 Section 6. Carryover, carry back, refund and assignment of  
26 credit.

27 (a) General rule.--The amount of the alternative fuel  
28 distribution tax credit that a qualified business entity may use  
29 against any tax under Article III, IV or VI of the Tax Reform  
30 Code of 1971 during any year may not exceed 30% of the qualified

1 tax liability for that taxable year. If the qualified business  
2 entity cannot use the entire amount of the credit for the  
3 taxable year in which the credit is first approved, the excess  
4 may be carried over one succeeding taxable year and used as a  
5 credit against any tax under Article III, IV or VI of the Tax  
6 Reform Code of 1971 of the qualified alternative fuel  
7 distributor for that taxable year. In the event that the  
8 alternative fuel distribution tax credit is carried over to a  
9 succeeding taxable year, it shall be reduced by the amount that  
10 was used as a credit during the immediately preceding taxable  
11 year.

12 (b) Application.--An alternative fuel distribution tax  
13 credit approved by the department for a qualified alternative  
14 fuel distribution expense in a taxable year first shall be  
15 applied against the qualified alternative fuel distributor's tax  
16 liability for the current taxable year as of the date on which  
17 the credit was approved.

18 (c) Restriction.--A qualified business entity may not carry  
19 back, obtain a refund of or assign any unused alternative fuel  
20 distribution tax credit.

21 Section 7. Pass-through entity.

22 (a) General rule.--If a pass-through entity has any unused  
23 tax credit under section 6, the entity may elect in writing,  
24 according to the department's procedures, to transfer all or a  
25 portion of the tax credit to shareholders, members or partners  
26 in proportion to the shares of the entity's distributive income  
27 to which the shareholder, member or partner is entitled.

28 (b) Independent from other tax credits.--

29 (1) The tax credit provided under subsection (a) is in  
30 addition to any tax credit to which a shareholder, member or

1 partner of a pass-through entity is otherwise entitled under  
2 the Tax Reform Code of 1971.

3 (2) A pass-through entity and a shareholder, member or  
4 partner of a pass-through entity may not claim a credit under  
5 this act for the same qualified expense.

6 (c) Claim of tax credit.--A shareholder, member or partner  
7 of a pass-through entity to whom credit is transferred under  
8 subsection (a) must immediately claim the credit in the taxable  
9 year in which the transfer is made. The shareholder, member or  
10 partner may not carry forward, carry back, obtain a refund of or  
11 sell or assign the credit.

#### 12 Section 8. Report.

13 The department shall annually make a report to the  
14 Environmental Resources and Energy Committee of the Senate and  
15 the Environmental Resources and Energy Committee of the House of  
16 Representatives on the activities undertaken pursuant to this  
17 act, including, but not limited to:

18 (1) The number and amount of tax credits provided.

19 (2) The number and description of the business entities  
20 receiving the tax credits.

21 (3) The total cost of the equipment investment against  
22 which the tax credits were provided.

#### 23 Section 9. Applicability.

24 For purposes of this act, the tax credit shall be applicable  
25 beginning with the taxable years beginning after December 31,  
26 2006.

#### 27 Section 10. Effective date.

28 This act shall take effect in 60 days.