

# DEPARTMENT OF TAXATION

## 2008 Fiscal Impact Statement

1. **Patron** Clarke N. Hogan

3. **Committee** House Finance

4. **Title** Individual and Corporate Income Tax;  
Renewable and Alternative Energy  
Production Tax Credit

2. **Bill Number** HB 647

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would create an individual and corporate income tax credit for eligible persons that is equal to 0.001 cents for each kilowatt-hour ("kWh") of electricity, or its equivalent of energy other than electricity, that is renewable or alternative energy produced at a qualified energy generator in the taxable year. The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for five taxable years.

This bill would also require TAX to determine the appropriate conversion factor to quantify the tax credit based on the amount of British thermal units used to produce one kilowatt-hour ("Btu/kWh"). Until such a conversion factor can be determined, a factor of 10,280 Btu/kWh would be applied.

This bill would be effective for taxable years beginning on or after January 1, 2009.

### 6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

#### 6b. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2007-08	\$0	GF
2008-09	\$0	GF
2009-10	(\$2.98 million)	GF
2010-11	(\$2.98 million)	GF
2011-12	(\$2.98 million)	GF
2012-13	(\$2.98 million)	GF
2013-14	(\$2.98 million)	GF

### 7. **Budget amendment necessary:** Yes.

Page 1, Revenue Estimates

## **8. Fiscal implications:**

### Administrative Impact

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as “routine,” and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not “routine.” Additionally, TAX will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

### Revenue Impact

This bill would result in a negative revenue impact of at least \$2.98 million annually, likely beginning in FY 2010. This estimate is based on 2005 data provided by the U.S. Energy Information Administration and assumes all claimants have sufficient tax liability to utilize the credit.

## **9. Specific agency or political subdivisions affected:**

Department of Taxation

## **10. Technical amendment necessary: Yes.**

In order to clarify the amount of electricity that a commercial facility must generate in order to qualify as an energy grantor, the following technical amendment is suggested:

Page 1, Line 33, after megawatt  
Insert: hour

## **11. Other comments:**

### Proposal

This bill would create an individual and corporate income tax credit for eligible persons that is equal to 0.001 cents for each kilowatt-hour (“kWh”) of electricity, or its equivalent of energy other than electricity, that is renewable or alternative energy produced at a qualified energy generator in the taxable year. The credit would not be allowed to exceed the tax liability of the taxpayer. Taxpayers could carry over unused amounts of the credit for five taxable years.

This bill would also require TAX to determine the appropriate conversion factor to quantify the tax credit based on the amount of British thermal units used to produce one kilowatt-hour (“Btu/kWh”). Until such a conversion factor can be determined, a factor of 10,280 Btu/kWh would be applied.

"Biomass" would mean organic material that is available on a renewable or recurring basis, including:

- Forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials or undesirable species, and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;
- Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws, aquatic plants, and agricultural processed co-products and waste products, including fats, oils, greases, whey, and lactose;
- Animal waste, including manure and slaughterhouse and other processing waste;
- Solid woody waste materials, including landscape trimmings, waste pallets, crates and manufacturing, construction and demolition wood wastes, excluding pressure-treated, chemically treated, or painted wood wastes and wood contaminated with plastic;
- Crops and trees planted for the purpose of being used to produce energy;
- Landfill gas, wastewater treatment gas, and biosolids, including organic waste byproducts generated during the wastewater treatment process; and
- Municipal solid waste, excluding tires and medical and hazardous waste.

"Eligible person" would mean a person that (i) holds title to a qualified energy generator or (ii) leases the property upon which a qualified energy generator operates from a locality pursuant to an industrial revenue bond issue.

"Qualified energy generator" would mean a commercial facility located in the Commonwealth with the capacity annually to generate at least one megawatt of electricity, or produce the equivalent amount of energy in the form of fuel, steam, or other energy product, that is generated or produced from solar photovoltaic technology, wind power, or biomass, and that is sold to an unrelated person or used in a manufacturing process.

"Renewable or alternative energy" would mean the electricity or other form of energy, including fuel or steam, that is generated or produced at a qualified energy generator from solar photovoltaic technology, wind power, or biomass.

This bill would be effective for taxable years beginning on or after January 1, 2009.

#### Similar Legislation

**House Bill 732** would create an individual and corporate income tax credit for taxpayers owning commercial property utilized for business purposes who purchase energy-efficient equipment to be used for heating, cooling, and providing electricity to their property.

**House Bill 744** would create an income tax deduction for individuals who purchase energy-efficient equipment to be used for heating, cooling, and providing electricity to their residences.

**Senate Bill 446** would require that by July 1, 2020, and in subsequent years, 20% of the electric energy sold by each supplier to retail customers in the Commonwealth be generated from renewable energy sources. This bill would also require that each supplier reduce consumption of electric energy by its retail customers through energy efficiency programs, in an amount equal to 10% of the amount of electric energy consumed by its retail customers in 2007.

cc : Secretary of Finance

Date: 1/20/2008 TG  
HB647F161