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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2388 Session of  
2024

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INTRODUCED BY O'NEAL, KAIL, KAUFFMAN, COOK, STENDER, OWLETT,  
MARCELL, ROWE, KUTZ, STAMBAUGH, GLEIM, TOPPER, HAMM,  
ZIMMERMAN, BARTON, RAPP, SMITH, D'ORSIE, KRUPA, BOROWICZ,  
FINK, SCHEUREN, SCHLEGEL, STAATS, LEADBETER, E. NELSON,  
MIHALEK, SCHMITT, ECKER, MENTZER, WHITE, CUTLER, DELOZIER,  
DUNBAR, DIAMOND, R. MACKENZIE, RADER, RYNCAVAGE, ROAE,  
MERCURI, TOMLINSON, PICKETT, M. MACKENZIE, RIGBY, CAUSER,  
TWARDZIK, M. BROWN, ARMANINI, CABELL, HOGAN, WATRO, MARSHALL,  
WARNER, DAVANZO, FLICK, OLSOMMER, GROVE, COOPER, T. JONES,  
JOZWIAK, FRITZ, STEHR, MALONEY, MAJOR, KUZMA AND M. JONES,  
JUNE 5, 2024

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REFERRED TO COMMITTEE ON FINANCE, JUNE 5, 2024

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AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," in personal income tax, further providing for  
11 imposition of tax; in gross receipts tax, further providing  
12 for imposition of tax, providing for transfers to Alternative  
13 Fuels Incentive Fund and further providing for establishment  
14 of revenue-neutral reconciliation; eliminating the tax  
15 imposed upon each dollar of the gross receipts received from  
16 the sales of electric energy; providing for the benefit of  
17 consumers and for a civil penalty; and making a repeal.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. Section 302(a) and (b) of the act of March 4,  
21 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,

1 amended December 14, 2023 (P.L.460, No.64), are amended to read:

2 Section 302. Imposition of Tax.--(a) Except as provided in  
3 subsection (c), every resident individual, estate or trust shall  
4 be subject to, and shall pay for the privilege of receiving each  
5 of the classes of income hereinafter enumerated in section 303,  
6 a tax upon each dollar of income received by that resident  
7 during that resident's taxable year at the rate of [three and  
8 seven hundredths] two and eight-tenths per cent.

9 (b) Except as provided in subsection (c), every nonresident  
10 individual, estate or trust shall be subject to, and shall pay  
11 for the privilege of receiving each of the classes of income  
12 hereinafter enumerated in section 303 from sources within this  
13 Commonwealth, a tax upon each dollar of income received by that  
14 nonresident during that nonresident's taxable year at the rate  
15 of [three and seven hundredths] two and eight-tenths per cent.

16 \* \* \*

17 Section 2. Section 1101(b) and (h) of the act are amended  
18 and the section is amended by adding a subsection to read:

19 Section 1101. Imposition of Tax.--\* \* \*

20 (a.2) Transfer to Alternative Fuels Incentive Fund.--  
21 Notwithstanding any other provision of law, beginning in fiscal  
22 year 2024-2025, and each fiscal year thereafter, six million  
23 dollars (\$6,000,000) of the taxes received under subsection (a)  
24 shall be transferred to the Alternative Fuels Incentive Fund  
25 established under section 3 of the act of November 29, 2004  
26 (P.L.1376, No.178), known as the Alternative Fuels Incentive  
27 Act. The transfer required under this subsection shall be made  
28 annually by May 31, 2025, and each May 31 thereafter.

29 (b) Electric Light, Waterpower and Hydro-electric  
30 Utilities.--

1       (1) Every electric light company, waterpower company and  
2 hydro-electric company now or hereafter incorporated or  
3 organized by or under any law of this Commonwealth, or now or  
4 hereafter organized or incorporated by any other state or by the  
5 United States or any foreign government and doing business in  
6 this Commonwealth, and every limited partnership, association,  
7 joint-stock association, copartnership, person or persons,  
8 engaged in electric light and power business, waterpower  
9 business and hydro-electric business in this Commonwealth, shall  
10 pay to the State Treasurer, through the Department of Revenue, a  
11 tax of forty-four mills upon each dollar of the gross receipts  
12 of the corporation, company or association, limited partnership,  
13 joint-stock association, copartnership, person or persons,  
14 received from:

15       [(1)] (i) the sales of electric energy within this State,  
16 except gross receipts derived from the sales for resale of  
17 electric energy to persons, partnerships, associations,  
18 corporations or political subdivisions subject to the tax  
19 imposed by this subsection upon gross receipts derived from such  
20 resale; and

21       [(2)] (ii) the sales of electric energy produced in  
22 Pennsylvania and made outside of Pennsylvania in a state that  
23 has taken action since December 21, 1977 which results in higher  
24 costs for electric energy produced in that state and sold in  
25 Pennsylvania unless the action that was taken after December 21,  
26 1977 is rescinded according to the following apportionment  
27 formula: except for gross receipts derived from sales under  
28 [clause (1)] subclause (i), the gross receipts from all sales of  
29 electricity of the producer shall be apportioned to the  
30 Commonwealth of Pennsylvania by the ratio of the producer's

1 operating and maintenance expenses in Pennsylvania and  
2 depreciation attributable to property in Pennsylvania to the  
3 producer's total operating and maintenance expenses and  
4 depreciation.

5 (2) This subsection shall expire for taxable years beginning  
6 after December 31, 2024.

7 \* \* \*

8 (h) Benefits to Consumer.--

9 (1) For purposes of this article, the reduction in the taxes  
10 imposed under subsections (a) and (b) shall derive to the  
11 benefit of the consumer purchasing services from said utilities.  
12 Said benefit shall be provided in the form of a reduction in the  
13 State tax surcharge. Failure to pass through the reduction to  
14 the consumer shall subject the public utility to a civil penalty  
15 of at least one thousand dollars (\$1,000), but not more than  
16 five thousand dollars (\$5,000), and such additional relief as  
17 the court may deem appropriate.

18 (2) For purposes of this article, the elimination of the  
19 taxes imposed under subsection (b) shall derive to the benefit  
20 of the consumer purchasing electric energy. Said benefit shall  
21 be provided in the form of the elimination of or a reduction in  
22 the State tax surcharge. Failure to pass through the elimination  
23 or reduction to the consumer shall subject the entity to a civil  
24 penalty of at least one thousand dollars (\$1,000), but not more  
25 than five thousand dollars (\$5,000), and such additional relief  
26 as the court may deem appropriate.

27 \* \* \*

28 Section 3. Section 1101.2 of the act is amended to read:

29 Section 1101.2. Establishment of Revenue-Neutral

30 Reconciliation.--(a) Rate of Tax.--Notwithstanding the

1 provisions of 66 Pa.C.S. § 2810(c)(1) (relating to revenue-  
2 neutral reconciliation), the rate of tax established under 66  
3 Pa.C.S. § 2810(c)(2) for the period beginning January 1, 2002,  
4 shall continue in force without further adjustment for periods  
5 beginning January 1, 2003, and thereafter, and the Secretary of  
6 Revenue shall not deliver any further reports under 66 Pa.C.S. §  
7 2810(c)(3).

8 (b) Expiration.--Subsection (a) shall expire for taxable  
9 years beginning after December 31, 2024.

10 Section 4. Repeals are as follows:

11 (1) The General Assembly declares that the repeal under  
12 paragraph (2) is necessary to effectuate the addition of  
13 section 1101(a.2) of the act.

14 (2) Section 6 of the act of November 29, 2004 (P.L.1376,  
15 No.178), known as the Alternative Fuels Incentive Act, is  
16 repealed.

17 Section 5. The addition of section 1101(a.2) of the act is a  
18 continuation of section 6 of the act of November 29, 2004  
19 (P.L.1376, No.178), known as the Alternative Fuels Incentive  
20 Act. Except as provided in section 1101(a.2) of the act, all  
21 activities initiated under section 6 of the Alternative Fuels  
22 Incentive Act shall continue and remain in full force and effect  
23 and may be completed under section 1101(a.2) of the act. Orders,  
24 regulations, rules and decisions which were made under section 6  
25 of the Alternative Fuels Incentive Act and which are in effect  
26 on the effective date of section 4 of this act shall remain in  
27 full force and effect until revoked, vacated or modified under  
28 section 1101(a.2) of the act. Contracts, obligations and  
29 collective bargaining agreements entered into under section 6 of  
30 the Alternative Fuels Incentive Act are not affected nor

1 impaired by the repeal of section 6 of the Alternative Fuels  
2 Incentive Act.

3 Section 6. This act shall apply as follows:

4 (1) The amendment of section 302(a) and (b) of the act  
5 shall apply to taxable years beginning after December 31,  
6 2024.

7 (2) The amendment of section 1101(b) of the act shall  
8 apply to gross receipts derived from transactions occurring  
9 after December 31, 2024.

10 (3) The amendment of section 1101.2 of the act shall  
11 apply to gross receipts derived from transactions occurring  
12 after December 31, 2024.

13 Section 7. The following shall apply:

14 (1) The amendment of sections 1101(b) and 1101.2 of the  
15 act and paragraph (2) are intended to eliminate the tax  
16 imposed upon each dollar of the gross receipts received from  
17 the sales of electric energy for taxable years beginning  
18 after December 31, 2024, and shall not be construed to  
19 relieve any taxpayer from the tax imposed under section  
20 1101(b) or 66 Pa.C.S. § 2810, for taxable years beginning  
21 before January 1, 2025.

22 (2) Notwithstanding any other provision of law, for  
23 taxable years beginning after December 31, 2024, a tax shall  
24 not be imposed under 66 Pa.C.S. § 2810 upon each dollar of  
25 the gross receipts received from the sales of electric  
26 energy. The elimination of the taxes imposed under 66 Pa.C.S.  
27 § 2810 upon each dollar of the gross receipts received from  
28 the sales of electric energy shall derive to the benefit of  
29 the consumer purchasing services from said entities. The  
30 benefit shall be provided in the form of the elimination of

1 or a reduction in the State tax surcharge. Failure to pass  
2 through the elimination or reduction to the consumer shall  
3 subject the entity to a civil penalty of at least \$1,000, but  
4 not more than \$5,000, and additional relief as the court may  
5 deem appropriate.

6 Section 8. This act shall take effect as follows:

7 (1) The addition of section 1101(a.2) of the act shall  
8 take effect July 1, 2024.

9 (2) Sections 4 and 5 of this act shall take effect July  
10 1, 2024.

11 (3) The remainder of this act shall take effect  
12 immediately.