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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 761

Session of
2011

INTRODUCED BY CUTLER, MIRABITO, BAKER, BOYD, CLYMER, COX, DENLINGER, FLECK, FREEMAN, GILLEN, GINGRICH, GODSHALL, GRELL, HARHART, HENNESSEY, HICKERNELL, HUTCHINSON, KAUFFMAN, KORTZ, LAWRENCE, LONGIETTI, MARSHALL, METZGAR, MILLER, MOUL, PICKETT, PYLE, REICHLEY, ROAE, ROSS, STERN, SWANGER, TOEPEL, VULAKOVICH, WATSON, QUINN, FARRY, BEAR, ROCK, CALTAGIRONE, SAINATO, MILLARD, M. K. KELLER AND GIBBONS, FEBRUARY 23, 2011

AS RE-REPORTED FROM COMMITTEE ON RULES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 30, 2012

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 sales and use tax, further providing for
11 definitions, for exclusions from tax, for time for filing
12 returns, for time of payment, for assessment and for
13 collection of tax; in personal income tax, further providing
14 for returns of married individuals, deceased or disabled
15 individuals and fiduciaries, for requirements concerning
16 returns, notices, records and statements, for assessment and
17 for additions, penalties and fees; in corporate net income
18 tax, further providing for definitions, for extension of time
19 to file reports, for changes made by Federal Government and
20 for assessments; in insurance premiums tax, further providing
21 for definitions and for imposition of tax; in realty transfer
22 tax, further providing for definitions, for excluded
23 transactions, for documents relating to associations or
24 corporations and members, partners, stockholders or
25 shareholders thereof, for acquired company and for assessment
26 and notice of tax and review; in cigarette tax, further
27 providing for definitions; in research and development tax

credit, further providing for limitation on credits and for termination; in film production tax credit, further providing for definitions, for credit for qualified film production expenses, for carrying and assigning credits and for limitations; ~~repealing the educational improvement tax credit,~~ IN EDUCATIONAL IMPROVEMENT TAX CREDIT, FURTHER PROVIDING FOR DEFINITIONS, FOR QUALIFICATION AND APPLICATION, FOR TAX CREDIT AND FOR LIMITATIONS; providing for a resource manufacturing tax credit, FOR AN EDUCATIONAL OPPORTUNITY SCHOLARSHIP PROGRAM, for a rehabilitation of historic structures tax credit and a community-based services tax credit; in tax credit for new jobs, further providing for definitions, for application process and for tax credit; in neighborhood assistance tax credit, further providing for definitions and for tax credit; in malt beverage tax, further providing for assessment by department; in inheritance tax, further providing for definitions and for transfers not subject to tax; in procedure and administration, further providing for petition for reassessment and for petition procedure and providing for compromise by secretary; in general provisions, further providing for petitions for refunds and providing for administrative bank attachment for accounts of obligors to the Commonwealth; making related repeals; abrogating a regulation; and providing for applicability.

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The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows:

Section 1. Section 201(d) of the act of March 4, 1971

(P.L.6, No.2), known as the Tax Reform Code of 1971, amended May 7, 1997 (P.L.85, No.7), April 23, 1998 (P.L.239, No.45), May 12, 1999 (P.L.26, No.4), May 24, 2000 (P.L.106, No.23), June 22, 2001 (P.L.353, No.23) and December 23, 2003 (P.L.250, No.46), is amended to read:

Section 201. Definitions.--The following words, terms and phrases when used in this Article II shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

(d) "Processing." The performance of the following activities when engaged in as a business enterprise:

(1) The filtering or heating of honey, the cooking, baking or freezing of fruits, vegetables, mushrooms, fish, seafood,

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1 meats, poultry or bakery products, when the person engaged in
2 such business packages such property in sealed containers for
3 wholesale distribution.

4 (1.1) The processing of fruits or vegetables by cleaning,
5 cutting, coring, peeling or chopping and treating to preserve,
6 sterilize or purify and substantially extend the useful shelf
7 life of the fruits or vegetables, when the person engaged in
8 such activity packages such property in sealed containers for
9 wholesale distribution.

10 (2) The scouring, carbonizing, cording, combing, throwing,
11 twisting or winding of natural or synthetic fibers, or the
12 spinning, bleaching, dyeing, printing or finishing of yarns or
13 fabrics, when such activities are performed prior to sale to the
14 ultimate consumer.

15 (3) The electroplating, galvanizing, enameling, anodizing,
16 coloring, finishing, impregnating or heat treating of metals or
17 plastics for sale or in the process of manufacturing.

18 (3.1) The blanking, shearing, leveling, slitting or burning
19 of metals for sale to or use by a manufacturer or processor.

20 (4) The rolling, drawing or extruding of ferrous and non-
21 ferrous metals.

22 (5) The fabrication for sale of ornamental or structural
23 metal or of metal stairs, staircases, gratings, fire escapes or
24 railings (not including fabrication work done at the
25 construction site).

26 (6) The preparation of animal feed or poultry feed for sale.

27 (7) The production, processing and bottling of non-alcoholic
28 beverages for wholesale distribution.

29 (8) The operation of a saw mill or planing mill for the
30 production of lumber or lumber products for sale. The operation

1 of a saw mill or planing mill begins with the unloading by the
2 operator of the saw mill or planing mill of logs, timber,
3 pulpwood or other forms of wood material to be used in the saw
4 mill or planing mill.

5 (9) The milling for sale of flour or meal from grains.

6 (9.1) The aging, stripping, conditioning, crushing and
7 blending of tobacco leaves for use as cigar filler or as
8 components of smokeless tobacco products for sale to
9 manufacturers of tobacco products.

10 (10) The slaughtering and dressing of animals for meat to be
11 sold or to be used in preparing meat products for sale, and the
12 preparation of meat products including lard, tallow, grease,

13 cooking and inedible oils for wholesale distribution.

14 (11) The processing of used lubricating oils.

15 (12) The broadcasting of radio and television programs of
16 licensed commercial or educational stations.

17 (13) The cooking or baking of bread, pastries, cakes,
18 cookies, muffins and donuts when the person engaged in such
19 activity sells such items at retail at locations that do not
20 constitute an establishment from which ready-to-eat food and
21 beverages are sold. For purposes of this clause, a bakery, a
22 pastry shop and a donut shop shall not be considered an
23 establishment from which ready-to-eat food and beverages are
24 sold.

25 (14) The cleaning and roasting and the blending, grinding or
26 packaging for sale of coffee from green coffee beans or the
27 production of coffee extract.

28 (15) The preparation of dry or liquid fertilizer for sale.

29 (16) The production, processing and packaging of ice for
30 wholesale distribution.

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1 (17) The producing of mobile telecommunications services.

2 (18) The collection, washing, sorting, inspecting and
3 packaging of eggs.

4 * * *

5 Section 1.1. Section 204(10), (13) and (57) of the act,
6 amended April 23, 1998 (P.L.239, No.45), May 12, 1999 (P.L.26,
7 No.4) and June 29, 2002 (P.L.559, No.89) and repealed in part

8 December 20, 2000 (P.L.841, No.119), are amended to read:
9 Section 204. Exclusions from Tax.--The tax imposed by
10 section 202 shall not be imposed upon any of the following:

11 * * *

12 (10) The sale at retail to or use by (i) any charitable
13 organization, volunteer firemen's organization, volunteer
14 firefighters' relief association as defined in 35 Pa.C.S. § 7412
15 (relating to definitions) or nonprofit educational institution,
16 or (ii) a religious organization for religious purposes of
17 tangible personal property or services other than pursuant to a
18 construction contract: Provided, however, That the exclusion of
19 this clause shall not apply with respect to any tangible
20 personal property or services used in any unrelated trade or
21 business carried on by such organization or institution or with
22 respect to any materials, supplies and equipment used and
23 transferred to such organization or institution in the
24 construction, reconstruction, remodeling, renovation, repairs
25 and maintenance of any real estate structure, other than
26 building machinery and equipment, except materials and supplies
27 when purchased by such organizations or institutions for routine
28 maintenance and repairs. If the department has issued sales tax
29 exempt status to a volunteer firefighters' organization or a
30 volunteer firefighters' relief association, the sales tax exempt

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1 status may not expire unless the activities of the organization
2 or association change so that the organization or association
3 does not qualify as an institution of purely public charity in
4 which case the organization or association shall immediately
5 notify the department of the change. If the department
6 ascertains that an organization or association no longer
7 qualifies as an institution of purely public charity, the
8 department may revoke the sales tax exempt status of the
9 organization or association.

10 * * *

11 (13) The sale at retail, or use of wrapping paper, wrapping
12 twine, bags, cartons, tape, rope, labels, nonreturnable
13 containers and all other wrapping supplies, when such use is
14 incidental to the delivery of any personal property, except that
15 any charge for wrapping or packaging shall be subject to tax at
16 the rate imposed by section 202, unless the property wrapped or
17 packaged will be resold by the purchaser of the wrapping or
18 packaging service.

19 * * *

20 (57) The sale at retail to or use by a construction
21 contractor of building machinery and equipment and services
22 thereto that are:

23 (i) transferred pursuant to a construction contract for any
24 charitable organization, volunteer firemen's organization,
25 volunteer firefighters' relief association, nonprofit
26 educational institution or religious organization for religious
27 purposes, provided that the building machinery and equipment and
28 services thereto are not used in any unrelated trade or
29 business; or

30 (ii) transferred to the United States or the Commonwealth or

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1 its instrumentalities or political subdivisions[; or].

2 * * *

3 Section 1.2. Sections 217 and 222 of the act, amended
4 October 9, 2009 (P.L.451, No.48), are amended to read:

5 Section 217. Time for Filing Returns.--(a) Quarterly[, and
6 Monthly [and Semi-monthly] Returns:

7 (1) For the year in which this article becomes effective and
8 in each year thereafter a return shall be filed quarterly by
9 every licensee on or before the twentieth day of April, July,
10 October and January for the three months ending the last day of
11 March, June, September and December.

12 (2) For the year in which this article becomes effective,
13 and in each year thereafter, a return shall be filed monthly
14 with respect to each month by every licensee whose [total]
15 actual tax [reported, or in the event no report is filed, the
16 total tax which should have been reported,] liability for the
17 third calendar quarter of the preceding year equals or exceeds
18 six hundred dollars (\$600) and is less than twenty-five thousand
19 dollars (\$25,000). Such returns shall be filed on or before the
20 twentieth day of the next succeeding month with respect to which
21 the return is made. Any licensee required to file monthly
22 returns hereunder shall be relieved from filing quarterly
23 returns.

24 (3) [After May 31, 2011, a return shall be filed semi-
25 monthly with respect to each month by every licensee whose total
26 tax reported, or in the event no report is filed, the total tax
27 which should have been reported, for the third calendar quarter
28 of the preceding year equals or exceeds twenty-five thousand
29 dollars (\$25,000). For the period from the first day of the
30 month to the fifteenth day of the month, the returns shall be

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1 filed on or before the twenty-fifth day of the month. For the
2 period from the sixteenth day of the month to the last day of
3 the month, the returns shall be filed on or before the tenth day
4 of the next succeeding month with respect to which the return is
5 made. Any licensee required to file semi-monthly returns under
6 this section shall be relieved from filing monthly or quarterly
7 returns.] With respect to every licensee whose actual tax
8 liability for the third calendar quarter of the preceding year
9 equals or exceeds twenty-five thousand dollars (\$25,000) and is
10 less than one hundred thousand dollars (\$100,000), the licensee
11 shall, on or before the twentieth day of each month, file a
12 single return consisting of all of the following:

13 (i) Either of the following:

14 (A) An amount equal to fifty per centum of the licensee's
15 actual tax liability for the same month in the preceding
16 calendar year if the licensee was a monthly filer or, if the
17 licensee was a quarterly or semi-annual filer, fifty per centum
18 of the licensee's average actual tax liability for that tax
19 period in the preceding calendar year. The average actual tax
20 liability shall be the actual tax liability for the tax period
21 divided by the number of months in that tax period. For
22 licensees that were not in business during the same month in the
23 preceding calendar year or were in business for only a portion
24 of that month, fifty per centum of the average actual tax
25 liability for each tax period the licensee has been in business.
26 If the licensee is filing a tax liability for the first time
27 with no preceding tax periods, the amount shall be zero.

28 (B) An amount equal to or greater than fifty per centum of
29 the licensee's actual tax liability for the same month.

30 (ii) An amount equal to the taxes due for the preceding

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1 month, less any amounts paid in the preceding month as required
2 by subclause (i).

3 (4) With respect to each month by every licensee whose
4 actual tax liability for the third calendar quarter of the
5 preceding year equals or exceeds one hundred thousand dollars
6 (\$100,000), the licensee shall, on or before the twentieth day
7 of each month, file a single return consisting of the amounts
8 under clause (3)(i)(A) and (ii).

9 (5) The amount due under clause (3)(i) or (4) shall be due
10 the same day as the remainder of the preceding month's tax.

11 (6) The department shall determine whether the amounts
12 reported under clause (3) or (4) shall be remitted as one
13 combined payment or as two separate payments.

14 (7) The department may require the filing of the returns and
15 the payments for these types of filers by electronic means
16 approved by the department.

17 (8) Any licensee filing returns under clause (3) or (4)
18 shall be relieved of filing quarterly returns.

19 (9) If a licensee required to remit payments under clause
20 (3) or (4) fails to make a timely payment or makes a payment
21 which is less than the required amount, the department may, in
22 addition to any applicable penalties, impose an additional
23 penalty equal to five per centum of the amount due under clause
24 (3) or (4) which was not timely paid. The penalty under this
25 clause shall be determined when the tax return is filed for the
26 tax period.

27 (b) Annual Returns. For the calendar year 1971, and for each
28 year thereafter, no annual return shall be filed, except as may
29 be required by rules and regulations of the department

30 promulgated and published at least sixty days prior to the end
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1 of the year with respect to which the returns are made. Where
2 such annual returns are required licensees shall not be required
3 to file such returns prior to the twentieth day of the year
4 succeeding the year with respect to which the returns are made.

5 (c) Other Returns. Any person, other than a licensee, liable
6 to pay to the department any tax under this article, shall file
7 a return on or before the twentieth day of the month succeeding
8 the month in which such person becomes liable for the tax.

9 (d) Small Taxpayers. The department, by regulation, may
10 waive the requirement for the filing of quarterly return in the
11 case of any licensee whose individual tax collections do not
12 exceed seventy-five dollars (\$75) per calendar quarter and may
13 provide for reporting on a less frequent basis in such cases.

14 Section 222. Time of Payment.--(a) Monthly[, Semi-monthly]
15 and Quarterly Payments. The tax imposed by this article and
16 incurred or collected by a licensee shall be due and payable by
17 the licensee on the day the return is required to be filed under
18 the provisions of section 217 and such payment must accompany
19 the return [for such preceding period].

20 (b) Annual Payments. If the amount of tax due for the
21 preceding year as shown by the annual return of any taxpayer is
22 greater than the amount already paid by him in connection with
23 his monthly[, semi-monthly] or quarterly returns he shall send
24 with such annual return a remittance for the unpaid amount of
25 tax for the year.

26 (c) Other Payments. Any person other than a licensee liable
27 to pay any tax under this article shall remit the tax at the
28 time of filing the return required by this article.

29 Section 1.3. Section 230 of the act, amended July 25, 2007

30 (P.L.373, No.55), is amended to read:

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1 Section 230. Assessment.--(a) The department is authorized
2 and required to make the inquiries, determinations and
3 assessments of the tax (including interest, additions and
4 penalties) imposed by this article. A notice of assessment and
5 demand for payment shall be mailed to the taxpayer. The notice
6 shall set forth the basis of the assessment.

7 [(b) The notice required by subsection (a) shall be mailed
8 by certified mail if the assessment is for \$300 or more.]

9 Section 1.4. Section 237(c) of the act, amended July 1, 1985
10 (P.L.78, No.29), is amended to read:

11 Section 237. Collection of Tax.--* * *

12 (c) Exemption Certificates. If the tax does not apply to the
13 sale or lease of tangible personal property or services, the
14 purchaser or lessee shall furnish to the vendor a certificate
15 indicating that the sale is not legally subject to the tax. The
16 certificate shall be in substantially such form as the
17 department may, by regulation, prescribe. Where the tangible
18 personal property or service is of a type which is never subject
19 to the tax imposed or where the sale or lease is in interstate
20 commerce, such certificate need not be furnished. Where a series
21 of transactions are not subject to tax, a purchaser or user may
22 furnish the vendor with a single exemption certificate in
23 substantially such form and valid for such period of time as the
24 department may, by regulation, prescribe. The department shall
25 provide all school districts and intermediate units with a
26 permanent tax exemption number. An exemption certificate, which
27 is complete and regular and on its face discloses a valid basis
28 of exemption if taken in good faith, shall relieve the vendor
29 from the liability imposed by this section. An exemption

30 certificate accepted by a vendor from a natural person domiciled
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1 within this Commonwealth or any association, fiduciary,
2 partnership, corporation or other entity, either authorized to
3 do business within this Commonwealth or having an established
4 place of business within this Commonwealth, in the ordinary
5 course of the vendor's business, which on its face discloses a
6 valid basis of exemption consistent with the activity of the
7 purchaser and character of the property or service being
8 purchased or which is provided to the vendor by a charitable,
9 religious, educational, volunteer firefighters' relief
10 association or volunteer firemen's organization and contains the
11 organization's charitable exemption number and which, in the
12 case of any purchase costing two hundred dollars (\$200) or more,
13 is accompanied by a sworn declaration on a form to be provided
14 by the department of an intended usage of the property or
15 service which would render it nontaxable, shall be presumed to
16 be taken in good faith and the burden of proving otherwise shall
17 be on the Department of Revenue.

18 Section 2. Section 331(e) of the act, repealed and added
19 August 31, 1971 (P.L.362, No.93), is amended and the section is
20 amended by adding subsections to read:

21 Section 331. Returns of Married Individuals, Deceased or
22 Disabled Individuals and Fiduciaries.--* * *

23 (e) [The] Except as provided under subsections (e.1) and
24 (e.2), the final return for any deceased individual shall be
25 made, signed and filed by his executor, administrator, or other
26 [person] personal representative charged with his property.

27 (e.1) (1) During the year in which a spouse dies, a
28 surviving spouse may file his or her return for the year jointly

29 with the final return of his or her deceased spouse if the joint

29 with the final return of his or her deceased spouse if the joint
30 return could have been filed if both spouses were living for the
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1 entire taxable year. If a personal representative, executor or
2 administrator or other fiduciary is appointed on behalf of the
3 deceased spouse before the deceased spouse's tax return is
4 filed, the surviving spouse may not file a joint return without
5 the consent of the fiduciary. If a joint return is filed, both
6 the fiduciary of the deceased spouse's estate and the surviving
7 spouse must sign the joint return.

8 (2) A surviving spouse may make, sign and file the final tax
9 return of his or her deceased spouse if the deceased spouse did
10 not previously file a return for that taxable year and if a
11 personal representative, executor or administrator has not been
12 appointed by the time the return is made, signed and filed. If
13 the surviving spouse properly files a final return for the
14 deceased spouse under this paragraph, a fiduciary who is later
15 appointed for the deceased spouse may supersede the final return
16 filed by the surviving spouse by filing a separate return for
17 the deceased spouse. Any joint return improperly filed by the
18 surviving spouse or superseded by the fiduciary shall be treated
19 as void. If the surviving spouse files his or her own tax return
20 jointly with the deceased spouse's return under this paragraph
21 and the return is superseded by the filing of a return by the
22 deceased spouse's fiduciary, the surviving spouse shall be
23 required to file separate return within 90 days of the filing of
24 the fiduciary's return. The surviving spouse's separate return
25 shall be deemed to be filed:

26 (i) on the day the joint return was filed if it is filed
27 within such time; or

28 (ii) the date the department receives it.

29 (e.2) If both taxpayers die during the same tax year, a
30 final return for each deceased spouse may be jointly filed if a
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1 joint return could have been filed had both spouses lived for
2 the entire taxable year and with the consent of the personal
3 representatives, executors or administrators of both deceased
4 spouses under subsection (e.1) by the due date, including
5 extensions, of the joint tax return. Both fiduciaries must sign
6 the joint return.

7 * * *

8 Section 2.1. Section 335 of the act is amended by adding a
9 subsection to read:

10 Section 335. Requirements Concerning Returns, Notices,
11 Records and Statements.--* * *

12 (f) The following apply:

13 (1) Any person who:

14 (i) makes payments of income from sources within this
15 Commonwealth;

16 (ii) makes payments of nonemployee compensation or payments
17 under an oil and gas lease under subparagraph (i) to a resident
18 or nonresident individual, an entity treated as a partnership
19 for tax purposes or a single member limited liability company;
20 and

21 (iii) is required to make a form 1099-MISC return to the
22 Secretary of the Treasury of the United States with respect to
23 the payments, shall file a copy of form 1099-MISC with the
24 department and send a copy of form 1099-MISC to the payee by the
25 Federal filing deadline each year.

26 (2) If the payor is required to perform electronic filing
27 for Pennsylvania employer withholding purposes, the form 1099-
28 MISC shall be filed electronically with the department.

29 Section 3. Section 338 of the act, amended July 25, 2007
30 (P.L.373, No.55), is amended to read:
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1 Section 338. Assessment.--(a) The department is authorized
2 and required to make the inquiries, determinations and
3 assessments of all taxes imposed by this article.

4 (b) If the mode or time for the assessment of any tax is not
5 otherwise provided for, the department may establish the same by
6 regulations.

7 (c) In the event that any taxpayer fails to file a return
8 required by this article, the department may make an estimated
9 assessment (based on information available) of the proper amount
10 of tax owing by the taxpayer. A notice of assessment in the
11 estimated amount shall be sent to the taxpayer. The tax shall be
12 paid within ninety days after a notice of such estimated
13 assessment has been mailed to the taxpayer, unless within such
14 period the taxpayer has filed a petition for reassessment in the
15 manner prescribed by Article XXVII.

16 (d) A notice of assessment issued by the department pursuant
17 to this article shall be mailed to the taxpayer. The notice
18 shall set forth the basis of the assessment.

19 [(e) The notice required by subsection (d) shall be mailed
20 by certified mail if the assessment is for \$300 or more.]

21 Section 4. Section 352(d)(2) and (f) of the act, amended
22 August 4, 1991 (P.L.97, No.22) and July 7, 2005 (P.L.149,
23 No.40), are amended to read:

24 Section 352. Additions, Penalties and Fees.--* * *

25 (d) * * *

26 (2) No addition to tax shall be imposed if the total amount
27 of all payments of estimated tax made on or before the last date
28 prescribed for the payment of such installment equals or exceeds

29 the lesser of:

30 (A) The amount which would have been required to be paid on
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1 or before such date if the estimated tax were an amount equal to
2 the tax computed after consideration of the special tax
3 provisions for poverty, at the rates applicable to the taxable
4 year, but otherwise on the basis of the facts shown on his
5 return for, and the law applicable to, the preceding taxable
6 year; or

7 (B) An amount equal to ninety per cent of the tax computed,
8 at the rates applicable to the taxable year, on the basis of the
9 actual income for the months in the taxable year ending before
10 the month in which the installment is required to be paid, or,
11 in the case of a trust or estate, an amount equal to ninety per
12 cent of the applicable percentage of the tax for the taxable
13 year as determined pursuant to section 6654(d)(2)(C)(ii) of the
14 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
15 6654), as amended, at rates applicable to the taxable year,
16 computed on an annualized basis in accordance with United States
17 Treasury regulations, based upon the actual income for the
18 months of the taxable year ending with the last day of the
19 second preceding month prior to the month in which the
20 installment is required to be paid.

21 * * *

22 (f) (1) Any person required under the provisions of section
23 317 to furnish a statement to an employee who wilfully furnishes
24 a false or fraudulent statement, or who wilfully fails to
25 furnish a statement in the manner, at the time, and showing the
26 information required under section 317 and the regulations
27 prescribed thereunder, shall, for each such failure, be subject
28 to a penalty of fifty dollars (\$50) for each employee.

29 (2) Any person required by regulation to furnish an
30 information return who furnishes a false or fraudulent return
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1 shall for each failure be subject to a penalty of two hundred
2 fifty dollars (\$250).

3 (3) Every Pennsylvania S corporation required to file a
4 return with the department under the provisions of section 330.1
5 who furnishes a false or fraudulent return or who fails to file
6 the return in the manner and at the time required under section
7 330.1 shall be subject to a penalty of \$250 for each failure.

8 (4) Any person required to file a copy of form 1099-MISC
9 with the department under the provisions of section 335(f) who
10 wilfully furnishes a false or fraudulent form or who wilfully
11 fails to file the form in the manner, at the time and showing
12 the information required under section 335(f) shall, for each
13 such failure, be subject to a penalty of fifty dollars (\$50).

14 (5) Any person required under the provisions of section
15 335(f) to furnish a copy of form 1099-MISC to a payee who
16 wilfully furnishes a false or fraudulent form or who wilfully
17 fails to furnish a form in the manner, at the time and showing
18 the information required by section 335(f) shall, for each such
19 failure, be subject to a penalty of fifty dollars (\$50).

20 * * *

21 Section 4.1. Section 401(3)2(a)(9) of the act, amended
22 October 9, 2009 (P.L.451, No.48), is amended to read:

23 Section 401. Definitions.--The following words, terms, and
24 phrases, when used in this article, shall have the meaning
25 ascribed to them in this section, except where the context
26 clearly indicates a different meaning:

27 * * *

28 (3) "Taxable income." * * *

29 2. In case the entire business of any corporation, other
30 than a corporation engaged in doing business as a regulated
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1 investment company as defined by the Internal Revenue Code of

2 1986, is not transacted within this Commonwealth, the tax
3 imposed by this article shall be based upon such portion of the
4 taxable income of such corporation for the fiscal or calendar
5 year, as defined in subclause 1 hereof, and may be determined as
6 follows:

7 (a) Division of Income.

8 * * *

9 (9) (A) Except as provided in subparagraph (B):

10 (i) For taxable years beginning before January 1, 2007, all
11 business income shall be apportioned to this State by
12 multiplying the income by a fraction, the numerator of which is
13 the property factor plus the payroll factor plus three times the
14 sales factor and the denominator of which is five.

15 (ii) For taxable years beginning after December 31, 2006,
16 all business income shall be apportioned to this State by
17 multiplying the income by a fraction, the numerator of which is
18 the sum of fifteen times the property factor, fifteen times the
19 payroll factor and seventy times the sales factor and the
20 denominator of which is one hundred.

21 (iii) For taxable years beginning after December 31, 2008,
22 all business income shall be apportioned to this State by
23 multiplying the income by a fraction, the numerator of which is
24 the sum of eight and a half times the property factor, eight and
25 a half times the payroll factor and eighty-three times the sales
26 factor and the denominator of which is one hundred.

27 (iv) For taxable years beginning after December 31, 2009,

28 all business income shall be apportioned to this State by
29 multiplying the income by a fraction, the numerator of which is
30 the sum of five times the property factor, five times the
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1 payroll factor and ninety times the sales factor and the
2 denominator of which is one hundred.

3 (v) For taxable years beginning after December 31, 2012, all
4 business income shall be apportioned to this State by
5 multiplying the income by the sales factor.

6 * * *

7 Section 5. Section 405 of the act is amended to read:

8 Section 405. Extension of Time to File Reports.--The
9 department may, upon application made to it, in such form as it
10 shall prescribe, on or prior to the last day for filing any
11 annual report, and upon proper cause shown, grant to the
12 corporation, required to file such report, an extension of not
13 more than sixty days within which such report may be filed[, and
14 in case the Federal income tax authorities at any time grant a
15 longer extension of time for filing such reports with the
16 Federal Government, the department may grant an additional
17 extension of time for filing the annual report under this
18 article of not more than]. If the Federal income tax authorities
19 grant an extension of time for filing the reports with the
20 Federal Government, the department shall automatically grant an
21 extension of time for filing the annual report under this
22 article of thirty days after the termination of the Federal
23 extension, but the amount of tax due shall, in such cases,
24 nevertheless, be subject to interest from the due dates and at
25 the rates fixed by this article.

26 Section 6. Section 406 of the act, amended October 18, 2006

27 (P.L.1149, No.119), is amended to read:

28 Section 406. Changes Made by Federal Government.--(a) If
29 the amount of the taxable income, as returned by any corporation
30 to the Federal Government, is finally changed or corrected by
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1 the Commission of Internal Revenue or by any other agency or
2 court of the United States, such corporation, within [thirty
3 days] six months after the receipt of such final change or
4 correction, shall make a report of change, under oath or
5 affirmation, to the department showing such finally changed or
6 corrected taxable income, upon which the tax is required to be
7 paid to the United States. In case a corporation fails to file a
8 report of change, which results in an increase in taxable income
9 within the time prescribed, there shall be added to the tax, a
10 penalty of five dollars (\$5) for every day during which such
11 corporation is in default, but the department may abate any such
12 penalty in whole or in part.

13 (b) If, as a result of such final change or correction, a
14 corporation should report any change in the amount of the
15 taxable income of any corporation upon which tax is imposed by
16 this article, the department shall adjust the corporation's tax
17 on the department's records to conform to the revised tax as
18 reported and shall credit the taxpayer's account to the extent

19 of any overpayment resulting from the adjustment. The department
20 shall then have the power, and its duty shall be, to determine
21 and assess the taxpayer's unpaid and unreported liability for
22 tax, interest or penalty due the Commonwealth, or to credit the
23 taxpayer's account.

24 (c) Where a report of change, of Federal income, or Federal
25 tax, has been filed after an administrative or judicial appeal

26 has been taken, the report shall be deemed a part of the
27 original annual report upon petition of the taxpayer at any
28 subsequent proceeding as though it had been filed with the
29 original report, and no separate appeal from an assessment
30 resulting from the report of change, correction, or

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1 redetermination shall be necessary to the extent the identical
2 issues for the taxable year have been raised in the appeal.

3 (d) The provisions of this section shall not be construed so
4 as to permit an assessment based upon the allowance of any
5 deduction on account of net operating losses, sustained in other
6 fiscal or calendar years, that are not allowed as deductions
7 under the definition of "taxable income" as contained in this
8 article.

9 (e) The provisions of this section shall apply to every
10 corporation which was doing business in Pennsylvania in the year
11 for which the Federal income has been changed, irrespective of
12 whether or not such corporation has thereafter merged,
13 consolidated, withdrawn or dissolved. Any clearance certificate
14 issued by the department shall be conditioned upon the
15 requirement that in the event of a change in Federal income for
16 any year for which taxes have been paid to the Commonwealth, the
17 corporation or its successor or its officers or its directors
18 shall file with the department a report of change and pay any
19 additional State tax resulting therefrom.

20 Section 6.1. Section 407.1 of the act, amended July 25, 2007
21 (P.L.373, No.55), is amended to read:

22 Section 407.1. Assessments.--(a) If the department
23 determines that unpaid or unreported tax is due the
24 Commonwealth, the department shall issue an assessment under
25 this section and sections 407.2, 407.3, 407.4 and 407.5. Such an

26 assessment is not subject to the settlement procedure in the act
27 of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

28 (b) A notice of assessment and demand for payment shall be
29 mailed to the taxpayer. The notice shall set forth the basis of
30 the assessment. The assessment shall be paid to the department
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1 upon receipt of the notice of assessment. Payment of the
2 assessment shall be without prejudice to the right of the
3 taxpayer to file a petition for reassessment in the manner
4 prescribed by Article XXVII.

5 (c) In the event that a taxpayer fails to file a report for
6 a tax governed by this article, the department may issue an
7 estimated assessment based upon the records and information
8 available or that may come into the department's possession. If

9 prior to the filing of a report the department estimates that
10 additional unpaid or unreported tax is due the Commonwealth, the
11 department may issue additional estimated assessments.

12 (d) A notice of estimated assessment and demand for payment
13 shall be mailed to the taxpayer. The assessment shall be paid to
14 the department upon receipt of the notice of assessment. Payment
15 of the estimated assessment does not eliminate the taxpayer's
16 obligation to file a report.

17 (e) A taxpayer shall have no right to petition for
18 reassessment, petition for refund or otherwise appeal a notice
19 of estimated assessment except as provided in subsection (f).

20 (f) The department shall remove an estimated assessment
21 within ninety days of the filing of a report and other
22 information required to determine the tax due the Commonwealth,
23 whereupon the department may issue an assessment as provided in
24 subsection (a). Any tax due the Commonwealth that is included in
25 an estimated assessment shall retain its lien priority as of the

26 date of the estimated assessment to the extent such amount is
27 included with an assessment issued upon the review of the filed
28 report.

29 [(g) The notice required by subsections (b) and (d) shall be
30 mailed by certified mail if the assessment is for \$300 or more.]

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1 Section 7. Section 901 introductory paragraph of the act,
2 amended December 1, 1983 (P.L.228, No.66), is amended to read:
3 Section 901. Definitions.--The following terms, when used in
4 this [act] article, shall have the meaning ascribed to them in
5 this section:

6 * * *

7 Section 8. Section 902(b) and (c) of the act, amended June
8 30, 1995 (P.L.139, No.21), are amended to read:

9 Section 902. * * *

10 (b) Disposition of Taxes.--The taxes paid by foreign fire
11 insurance companies under this [act] article shall continue to
12 be distributed and used for firemen's relief pension or
13 retirement purposes, as provided by section two of the act,
14 approved the twenty-eighth day of June, one thousand eight
15 hundred ninety-five (Pamphlet Laws 408), as amended; and the
16 taxes paid by foreign casualty insurance companies under this
17 [act] article shall continue to be distributed and used for
18 police pension, retirement or disability purposes as provided by
19 the act, approved the twelfth day of May, one thousand nine
20 hundred forty-three (Pamphlet Laws 259), as amended.

21 (c) Other Taxes.--All other taxes received under this [act]
22 article shall be credited to the General Fund for general
23 revenue purposes.

24 Section 9. The definitions of "association," "family farm
25 corporation" and "family farm partnership" in section 1101-C of

26 the act, amended July 2, 1986 (P.L.318, No.77) and April 23,
27 1998 (P.L.239, No.45), are amended and the section is amended by
28 adding a definition to read:

29 Section 1101-C. Definitions.--The following words when used
30 in this article shall have the meanings ascribed to them in this

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1 section:

2 "Association." A general partnership, limited partnership,
3 limited liability partnership or any other form of
4 unincorporated enterprise, owned or conducted by two or more
5 persons other than a private trust or decedent's estate.

6 * * *

7 ["Family farm corporation." A corporation of which at least
8 seventy-five per cent of its assets are devoted to the business
9 of agriculture and at least seventy-five per cent of each class
10 of stock of the corporation is continuously owned by members of
11 the same family. The business of agriculture shall include the
12 leasing to members of the same family of property which is
13 directly and principally used for agricultural purposes. The
14 business of agriculture shall not be deemed to include:

15 (1) Recreational activities such as, but not limited to,
16 hunting, fishing, camping, skiing, show competition or racing;

17 (2) The raising, breeding or training of game animals or
18 game birds, fish, cats, dogs or pets or animals intended for use
19 in sporting or recreational activities;

20 (3) Fur farming;

21 (4) Stockyard and slaughterhouse operations; or

22 (5) Manufacturing or processing operations of any kind.

23 "Family farm partnership." A partnership of which at least

24 seventy-five per cent of its assets are devoted to the business
25 of agriculture and at least seventy-five per cent of the

26 interests in the partnership are continuously owned by members
27 of the same family. The business of agriculture shall include
28 the leasing to members of the same family of property which is
29 directly and principally used for agricultural purposes. The
30 business of agriculture shall not be deemed to include:

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-
- 1 (1) recreational activities such as, but not limited to,
2 hunting, fishing, camping, skiing, show competition or racing;
3 (2) the raising, breeding or training of game animals or
4 game birds, fish, cats, dogs or pets or animals intended for use
5 in sporting or recreational activities;
6 (3) fur farming;
7 (4) stockyard and slaughterhouse operations; or
8 (5) manufacturing or processing operations of any kind.]

9 "Family farm business." A corporation or association of
10 which at least seventy-five per cent of its assets are devoted
11 to the business of agriculture and at least seventy-five per
12 cent of each class of stock of the corporation or the interests
13 in the association is continuously owned by members of the same
14 family. The business of agriculture shall include the leasing to
15 members of the same family or the leasing to a corporation or
16 association owned by members of the same family of property
17 which is directly and principally used for agricultural
18 purposes. The business of agriculture shall not be deemed to
19 include:

20 (1) recreational activities such as, but not limited to,
21 hunting, fishing, camping, skiing, show competition or racing;

22 (2) the raising, breeding or training of game animals or
23 game birds, fish, cats, dogs or pets or animals intended for use
24 in sporting or recreational activities;

- 25 (3) fur farming;
26 (4) stockyard and slaughterhouse operations; or
27 (5) manufacturing or processing operations of any kind.

28 * * *

29 Section 10. Section 1102-C.3(6), (19), (19.1) and (20) of
30 the act, amended or added July 2, 1986 (P.L.318, No.77) and June
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1 16, 1994 (P.L.279, No.48), are amended to read:

2 Section 1102-C.3. Excluded Transactions.--The tax imposed by
3 section 1102-C shall not be imposed upon:

4 * * *

5 (6) A transfer between husband and wife, between persons who
6 were previously husband and wife who have since been divorced,
7 provided the property or interest therein subject to such
8 transfer was acquired by the husband and wife or husband or wife
9 prior to the granting of the final decree in divorce, between
10 parent and child or the spouse of such child, between a
11 stepparent and a stepchild or the spouse of the stepchild,
12 between brother or sister or spouse of a brother or sister and
13 brother or sister or the spouse of a brother or sister and
14 between a grandparent and grandchild or the spouse of such
15 grandchild, except that a subsequent transfer by the grantee
16 within one year shall be subject to tax as if the grantor were

17 making such transfer.

18 * * *

19 (19) A transfer of real estate devoted to the business of
20 agriculture to a family farm [corporation] business by:

21 (i) a member of the same family which directly owns at least
22 seventy-five per cent of each class of the stock thereof or the
23 interests in that family farm business; or

24 (ii) a family farm business, which family directly owns at

--
25 least seventy-five per cent of each class of stock thereof or
26 the interests in that family farm business.

27 [(19.1) A transfer of real estate devoted to the business of
28 agriculture to a family farm partnership by a member of the same
29 family, which family directly owns at least seventy-five per
30 cent of the interests in the partnership.]

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1 (20) A transfer between members of the same family of an
2 ownership interest in a real estate company[,] or family farm
3 [corporation or family farm partnership which] business that
4 owns real estate.

5 * * *

6 Section 11. Section 1102-C.4 of the act, added July 2, 1986
7 (P.L.318, No.77), is amended to read:

8 Section 1102-C.4. Documents Relating to Associations or
9 Corporations and Members, Partners, Stockholders or Shareholders
10 Thereof.--Except as otherwise provided in [section] sections
11 1102-C.3 and 1102-C.5, documents which make, confirm or evidence
12 any transfer or devise of title to real estate between
13 associations or corporations and the members, partners,
14 shareholders or stockholders thereof are fully taxable. For the
15 purposes of this article, corporations and associations are
16 entities separate from their members, partners, stockholders or
17 shareholders.

18 Section 12. Section 1102-C.5 of the act, amended or added
19 July 2, 1986 (P.L.318, No.77) and June 16, 1994 (P.L.279,
20 No.48), is amended to read:

21 Section 1102-C.5. Acquired Company.--(a) A real estate
22 company is an acquired company upon a change in the ownership
23 interest in the company, however effected, if the change:

24 (1) does not affect the continuity of the company; and

25 (2) of itself or together with prior changes has the effect
26 of transferring, directly or indirectly, ninety per cent or more
27 of the total ownership interest in the company within a period
28 of three years.

29 (3) For the purposes of paragraph (2), a transfer occurs
30 within a period of three years of another transfer or transfers
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1 if, during the period:

2 (i) the transferring party provides a legally binding
3 commitment, enforceable at a future date, to execute the
4 transfer;

5 (ii) the terms of the transfer are fixed and not subject to
6 negotiation; and

7 (iii) the transferring party receives full consideration, in
8 any form, in exchange for the transfer.

9 [(b) With respect to real estate acquired after February 16,
10 1986, a family farm corporation is an acquired company when,
11 because of voluntary or involuntary dissolution, it ceases to be
12 a family farm corporation or when, because of issuance or
13 transfer of stock or because of acquisition or transfer of
14 assets that are devoted to the business of agriculture, it fails
15 to meet the minimum requirements of a family farm corporation
16 under this act.

17 (b.1) A family farm partnership is an acquired company when,
18 because of voluntary or involuntary dissolution, it ceases to be
19 a family farm partnership or when, because of transfer of
20 partnership interests or because of acquisition or transfer of
21 assets that are devoted to the business of agriculture, it fails
22 to meet the minimum requirements of a family farm partnership
23 under this act.]

24 (b.2) A family farm business is an acquired company when,
25 because of voluntary or involuntary dissolution, it ceases to be
26 a family farm business or when, because of the issuance or
27 transfer of stock in the corporation or transfer of interests in
28 the association or because of acquisition or transfer of assets
29 that are devoted to the business of agriculture, it fails to
30 meet the minimum requirements of a family farm business under
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1 this article.

2 (b.3) The conveyance of assets held by one family farm
3 business to another family farm business shall not be considered
4 a transfer of assets under this article if the same individuals
5 hold at least fifty per cent of the ownership interest in each
6 family farm business.

7 (c) Within thirty days after becoming an acquired company,
8 the company shall present a declaration of acquisition with the
9 recorder of each county in which it holds real estate for the
10 affixation of documentary stamps and recording. Such declaration
11 shall set forth the value of real estate holdings of the
12 acquired company in such county.

13 Section 12.1. Section 1111-C of the act, amended July 25,
14 2007 (P.L.373, No.55), is amended to read:

15 Section 1111-C. Assessment and Notice of Tax; Review.--(a)
16 If any person shall fail to pay any tax imposed by this article
17 for which he is liable, the department is hereby authorized and
18 empowered to make an assessment of additional tax and interest
19 due by such person based upon any information within its
20 possession or that shall come into its possession. All of such
21 assessments shall be made within three years after the date of
22 the recording of the document, subject to the following:

23 (1) If the taxpayer underpays the correct amount of the tax

24 by twenty-five per cent or more, the tax may be assessed at any
25 time within six years after the date of the recording of the
26 document.

27 (2) If any part of an underpayment of tax is due to fraud or
28 an undisclosed, intentional disregard of rules and regulations,
29 the full amount of the tax may be assessed at any time.

30 (b) Promptly after the date of such assessment, the
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1 department shall send a copy thereof, including the basis of the
2 assessment, to the person against whom it was made. Any taxpayer
3 against whom an assessment is made may petition the department
4 for a reassessment pursuant to Article XXVII.

5 [(d) The notice required by subsection (b) shall be sent by
6 certified mail if the assessment is for \$300 or more.]

7 Section 12.2. The definition of "wholesaler" in section 1201
8 of the act, added October 9, 2009 (P.L.451, No.48), is amended
9 to read:

10 Section 1201. Definitions.--As used in this article:

11 * * *

12 "Wholesaler." Any of the following:

13 (1) Any person that meets all of the following:

14 (i) In the usual course of business, purchases cigarettes
15 from a cigarette stamping agent or other wholesaler and
16 receives, stores, sells and distributes within this Commonwealth
17 at least seventy-five per cent of the cigarettes purchased by
18 him or her to retail dealers or wholesale dealers or any
19 combination who buys the cigarettes from him or her for the
20 purpose of resale to the ultimate consumer.

21 (ii) Maintains an established place of business for the
22 receiving, storage and distribution of cigarettes.

23 (2) Any person that meets all of the following:

24 (i) Is engaged in the business of distributing cigarettes
25 through vending machines to the ultimate consumer by means of
26 placing the cigarette vending machines, owned or leased by him,
27 in various outlets within this Commonwealth.

28 (ii) Pays to the owner or lessee of the premises a
29 commission or rental for the use of the premises.

30 (iii) Operates at least ten vending machines.

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1 (iv) Meets all the other requirements for licensing of
2 wholesalers under Article II-A of the act of April 9, 1929
3 (P.L.343, No.176), known as "The Fiscal Code," including
4 maintaining an established place of business for the receiving,
5 storage and distribution of cigarettes.

6 (3) Any person, including a franchisee, that meets all of
7 the following:

8 (i) Owns and operates no fewer than [five] three retail
9 outlets in this Commonwealth, having one hundred per cent common
10 ownership.

11 (ii) Purchases cigarettes from a cigarette stamping agency
12 or another wholesaler for resale to the ultimate consumer.

13 (iii) Maintains complete and accurate records of all
14 purchases and sales in his or her main office and also in the
15 retail outlet.

16 Section 13. Section 1709-B(a) of the act, amended July 12,

17 2006 (P.L.1137, No.116), is amended to read:

18 Section 1709-B. Limitation on Credits.--(a) The total

19 amount of credits approved by the department shall not exceed

20 [forty million dollars (\$40,000,000)] fifty-five million dollars
21 (\$55,000,000) in any fiscal year. Of that amount, [eight million
22 dollars (\$8,000,000)] eleven million dollars (\$11,000,000) shall

23 be allocated exclusively for small businesses. However, if the
24 total amounts allocated to either the group of applicants
25 exclusive of small businesses or the group of small business
26 applicants is not approved in any fiscal year, the unused
27 portion will become available for use by the other group of
28 qualifying taxpayers.

29 * * *

30 Section 14. Section 1712-B of the act, amended July 12, 2006
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1 (P.L.1137, No.116), is repealed:

2 [Section 1712-B. Termination.--The department shall not
3 approve a research and development tax credit under this article
4 for taxable years ending after December 31, 2015.]

5 Section 15. The definition of "qualified tax liability" in
6 section 1702-D of the act, added July 25, 2007 (P.L.373, No.55),
7 is amended and the section is amended by adding definitions to
8 read:

9 Section 1702-D. Definitions.

10 The following words and phrases when used in this article
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:
13

14 "Minimum stage filming requirements." Include:

15 (1) Taxpayers with a Pennsylvania production expense of
16 less than \$30,000,000 per production must:

17 (i) build at least one set at a qualified production
18 facility;

19 (ii) shoot for a minimum of ten days at a qualified
20 production facility; and

21 (iii) spend or incur a minimum of \$1,500,000 in
22 direct expenditures relating to the use or rental of

23 tangible property or for performance of services provided
24 by a qualified production facility.

25 (2) Taxpayers with a Pennsylvania production expense of
26 at least \$30,000,000 per production must:

27 (i) build at least two sets at a qualified
28 production facility;

29 (ii) shoot for a minimum of 15 days at a qualified
30 production facility; and

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1 (iii) spend or incur a minimum of \$5,000,000 in
2 direct expenditures relating to the use or rental of
3 tangible property at or for performance of services
4 provided by a qualified production facility.

5 * * *

6 "Qualified production facility." A film production facility
7 located within this Commonwealth that contains at least one
8 sound stage with a column-free, unobstructed floor space and
9 meets either of the following criteria:

10 (1) Has had a minimum of \$10,000,000 invested in the
11 film production facility in land or a structure purchased or
12 ground-up, purpose-built new construction or renovation of
13 existing improvement.

14 (2) Meets at least three of the following criteria:

15 (i) A sound stage having an industry standard noise
16 criteria rating of 25 or better.

17 (ii) A permanent grid with a minimum point load
18 capacity of no less than 1,000 pounds at a minimum of 25
19 points.

20 (iii) Built-in power supply available at a minimum
21 of 4,000 amps per sound stage without the need for

22 supplemental generators.

23 (iv) A height from sound stage floor to permanent
24 grid of a minimum of 20 feet.

25 (v) A sound stage with a sliding or roll-up access
26 door with a minimum height of 14 feet.

27 (vi) A built-in HVAC capacity during shoot days with
28 a minimum of 50 tons of cooling capacity available per
29 sound stage.

30 (vii) Perimeter security that includes a 24-hour,

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1 seven-days-a-week security presence and use of access
2 control identification badges.

3 (viii) On-site lighting and grip department with an
4 available inventory stored at the film production
5 facility with a minimum cost of investment of \$500,000.

6 (ix) A sound stage with contiguous production
7 offices with a minimum of 5,000 square feet per sound
8 stage.

9 "Qualified tax liability." The liability for taxes imposed
10 under Article III, IV [or], VI, VII or IX. The term shall not
11 include any tax withheld by an employer from an employee under
12 Article III.

13 * * *

14 Section 15.1. Section 1703-D(b) of the act, added July 25,
15 2007 (P.L.373, No.55), is amended to read:
16 Section 1703-D. Credit for qualified film production expenses.

17 * * *

18 (b) Review and approval.--[The department shall review and
19 approve or disapprove the applications in the order in which
20 they are received.] The department shall establish application
21 periods not to exceed 90 days each. All applications received

22 during the application period shall be reviewed and evaluated by
23 the department based on the following criteria:

24 (1) The anticipated number of production days in a
25 qualified production facility.

26 (2) The anticipated number of Pennsylvania employees.

27 (3) The number of preproduction days through
28 postproduction days in Pennsylvania.

29 (4) The anticipated number of days spent in Pennsylvania
30 hotels.

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1 (5) The Pennsylvania production expenses in comparison
2 to the production budget.

3 (6) The use of studio resources.

4 Upon determining the taxpayer has incurred or will incur
5 qualified film production expenses, the department may approve
6 the taxpayer for a tax credit. Applications not approved may be
7 reviewed and considered in subsequent application periods. The
8 department may approve a taxpayer for a tax credit based on its
9 evaluation of the criteria under this subsection.

10 * * *

11 Section 16. Sections 1705-D and 1707-D of the act, added
12 July 25, 2007 (P.L.373, No.55), are amended to read:

13 Section 1705-D. Carryover, carryback and assignment of credit.

14 (a) General rule.--If the taxpayer cannot use the entire
15 amount of the tax credit for the taxable year in which the tax
16 credit is first approved, then the excess may be carried over to
17 succeeding taxable years and used as a credit against the
18 qualified tax liability of the taxpayer for those taxable years.
19 Each time the tax credit is carried over to a succeeding taxable
20 year, it shall be reduced by the amount that was used as a
21 credit during the immediately preceding taxable year. The tax

22 credit provided by this article may be carried over and applied
23 to succeeding taxable years for no more than three taxable years
24 following the first taxable year for which the taxpayer was
25 entitled to claim the credit.

26 (b) Application.--A tax credit approved by the department in
27 a taxable year first shall be applied against the taxpayer's
28 qualified tax liability for the current taxable year as of the
29 date on which the credit was approved before the tax credit can
30 be applied against any tax liability under subsection (a).

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1 (c) No carryback or refund.--A taxpayer is not entitled to
2 carry back or obtain a refund of all or any portion of an unused
3 tax credit granted to the taxpayer under this article.

4 (d) (Reserved).

5 (e) Sale or assignment.--The following shall apply:

6 (1) A taxpayer, upon application to and approval by the
7 department, may sell or assign, in whole or in part, a tax
8 credit granted to the taxpayer under this article.

9 (2) The department and the Department of Revenue shall
10 jointly promulgate regulations for the approval of
11 applications under this subsection.

12 (3) Before an application is approved, the Department of
13 Revenue must make a finding that the applicant has filed all
14 required State tax reports and returns for all applicable
15 taxable years and paid any balance of State tax due as
16 determined at settlement, assessment or determination by the
17 Department of Revenue.

18 (4) Notwithstanding any other provision of law, the
19 Department of Revenue shall settle, assess or determine the
20 tax of an applicant under this subsection within 90 days of
21 the filing of all required final returns or reports in

22 accordance with section 806.1(a) (5) of the act of April 9,
23 1929 (P.L.343, No.176), known as The Fiscal Code.

24 (f) Purchasers and assignees.--Except as set forth in
25 subsection (g), the following apply:

26 (1) The purchaser or assignee of all or a portion of a
27 tax credit under subsection (e) shall immediately claim the
28 credit in the taxable year in which the purchase or
29 assignment is made.

30 (2) The amount of the tax credit that a purchaser or
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1 assignee may use against any one qualified tax liability may
2 not exceed 50% of such qualified tax liability for the
3 taxable year.

4 (3) The purchaser or assignee may not carry forward,
5 carry back or obtain a refund of or sell or assign the tax
6 credit.

7 (4) The purchaser or assignee shall notify the
8 Department of Revenue of the seller or assignor of the tax
9 credit in compliance with procedures specified by the
10 Department of Revenue.

11 (g) Limited carry forward of tax credits by a purchaser or
12 assignee.--A purchaser or assignee may carry forward all or any
13 unused portion of a tax credit purchased or assigned in calendar
14 year 2010 against qualified tax liabilities incurred in taxable
15 years 2011 and 2012.

16 Section 1707-D. Limitations.

17 (a) Cap.--In no case shall the aggregate amount of tax
18 credits awarded in any fiscal year under this article exceed

19 [\$75,000,000.] \$60,000,000. The department may, in its
20 discretion, award in one fiscal year up to:

21 (1) Thirty percent of the dollar amount of film

production tax credits available to be awarded in the next succeeding fiscal year.

(2) Twenty percent of the dollar amount of film production tax credits available to be awarded in the second successive fiscal year.

(3) Ten percent of the dollar amount of film production tax credits available to be awarded in the third successive fiscal year.

(a.1) Advance award of credits.--The advance award of film

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tax credits under subsection (a) shall:

(1) count against the total dollar amount of credits that the department may award in that next succeeding fiscal year; and

(2) reduce the dollar amount of credits that the department may award in that next succeeding fiscal year.

The individual limitations on the awarding of film production tax credits apply to an advance award of film production tax credits under subsection (a), and to a combination of film production tax credits awarded against the current fiscal year cap and against the next succeeding fiscal year's cap.

(b) Individual limitations.--The following shall apply:

(1) [The] Except as set forth in paragraph (1.1), the aggregate amount of film production tax credits awarded by the department under section 1703-D(d) to a taxpayer for a film may not exceed 25% of the qualified film production expenses to be incurred.

(1.1) In addition to the tax credit under paragraph (1), a taxpayer is eligible for a credit in the amount of 5% of the qualified film production expenses incurred by the

21 taxpayer if the taxpayer:

22 (i) films a feature film, television film or
23 television series, which is intended as programming for a
24 national audience; and

25 (ii) films in a qualified production facility which
26 meets the minimum stage filming requirements.

27 (2) A taxpayer that has received a grant under 12
28 Pa.C.S. § 4106 (relating to approval) shall not be eligible
29 for a film production tax credit under this act for the same
30 film.

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1 (c) Qualified production facility.--To be considered a
2 qualified production facility under subsection (b)(1.1), the
3 owner of a facility shall provide evidence to the department to
4 verify the development or facility specifications and capital
5 improvement costs incurred for the facility so that the
6 threshold amounts set in the definition of "qualified production
7 facility" under section 1702-D are satisfied, and upon
8 verification, the facility shall be registered by the department
9 officially as a qualified production facility.

10 (d) Waiver.--The department may make a determination that
11 the financial benefit to this Commonwealth resulting from the
12 direct investment in, or payments made to, Pennsylvania
13 facilities outweighs the benefit of maintaining the 60%
14 requirement contained in the definition of "qualified film
15 production expense." If such determination is made, the
16 department may waive the requirement that 60% of a film's total
17 production expenses be comprised of Pennsylvania production
18 expenses for a feature film, television film or television
19 series that is intended as programming for a national audience
20 and is filmed in a qualified production facility if the taxpayer

21 who has Pennsylvania production expenses of at least \$30,000,000
22 per production meets the minimum stage filming requirements.

23 ~~Section 17. (Reserved).~~

<--

24 ~~Section 18. Article XVII F of the act, added October 9, 2009~~
25 ~~(P.L. 451, No. 48), is repealed:~~

26 ~~{ARTICLE XVII F~~

27 ~~EDUCATIONAL IMPROVEMENT TAX CREDIT~~

28 ~~Section 1701 F. Scope of article.~~

29 ~~This article establishes the educational improvement tax~~
30 ~~credit.~~

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1 ~~Section 1702 F. Definitions.~~

2 ~~The following words and phrases when used in this article~~
3 ~~shall have the meanings given to them in this section unless the~~
4 ~~context clearly indicates otherwise:~~

5 ~~"Business firm." An entity authorized to do business in this~~
6 ~~Commonwealth and subject to taxes imposed under Article III, IV,~~
7 ~~VI, VII, VIII, IX or XV. The term includes a pass-through~~
8 ~~entity.~~

9 ~~"Contribution." A donation of cash, personal property or~~
10 ~~services, the value of which is the net cost of the donation to~~
11 ~~the donor or the pro rata hourly wage, including benefits, of~~
12 ~~the individual performing the services.~~

13 ~~"Department." The Department of Community and Economic~~
14 ~~Development of the Commonwealth.~~

15 ~~"Educational improvement organization." A nonprofit entity~~
16 ~~which:~~

17 ~~(1) is exempt from Federal taxation under section 501(c)~~

18 ~~(3) of the Internal Revenue Code of 1986 (Public Law 99-514,~~

19 ~~26 U.S.C. § 1 et seq.); and~~

20 ~~(2) contributes at least 80% of its annual receipts as~~

21 ~~grants to a public school for innovative educational~~
22 ~~programs.~~

23 ~~For purposes of this definition, a nonprofit entity~~
24 ~~"contributes" its annual cash receipts when it expends or~~
25 ~~otherwise irrevocably encumbers those funds for expenditure~~
26 ~~during the then current fiscal year of the nonprofit entity or~~
27 ~~during the next succeeding fiscal year of the nonprofit entity.~~

28 ~~"Eligible pre kindergarten student." A student, including an~~
29 ~~eligible student with a disability, who is enrolled in a pre-~~
30 ~~kindergarten program and is a member of a household with a~~
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1 ~~maximum annual household income as increased by the applicable~~
2 ~~income allowance.~~

3 ~~"Eligible student." A school age student, including an~~
4 ~~eligible student with a disability, who is enrolled in a school~~
5 ~~and is a member of a household with a maximum annual household~~
6 ~~income as increased by the applicable income allowance.~~

7 ~~"Eligible student with a disability." A pre kindergarten~~
8 ~~student or a school age student who meets all of the following:~~

9 ~~(1) Is either enrolled in a special education school or~~
10 ~~has otherwise been identified, in accordance with 22 Pa. Code~~
11 ~~Ch. 14 (relating to special education services and programs),~~
12 ~~as a "child with a disability," as defined in 34 CFR § 300.8~~
13 ~~(relating to child with a disability).~~

14 ~~(2) Needs special education and related services.~~

15 ~~(3) Is enrolled in a pre kindergarten program or in a~~
16 ~~school.~~

17 ~~(4) Is a member of a household with a household income~~
18 ~~of not more than the maximum annual household income.~~

19 ~~"Household." An individual living alone or with the~~
20 ~~following: a spouse, parent and their unemancipated minor~~

~~21 children, other unemancipated minor children who are related by~~
~~22 blood or marriage or other adults or unemancipated minor~~
~~23 children living in the household who are dependent upon the~~
~~24 individual.~~

~~25 "Household income." All moneys or property received of~~
~~26 whatever nature and from whatever source derived. The term does~~
~~27 not include the following:~~

~~28 (1) Periodic payments for sickness and disability other~~
~~29 than regular wages received during a period of sickness or~~
~~30 disability.~~

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~~1 (2) Disability, retirement or other payments arising~~
~~2 under workers' compensation acts, occupational disease acts~~
~~3 and similar legislation by any government.~~

~~4 (3) Payments commonly recognized as old-age or~~
~~5 retirement benefits paid to persons retired from service~~
~~6 after reaching a specific age or after a stated period of~~
~~7 employment.~~

~~8 (4) Payments commonly known as public assistance or~~
~~9 unemployment compensation payments by a governmental agency.~~

~~10 (5) Payments to reimburse actual expenses.~~

~~11 (6) Payments made by employers or labor unions for~~
~~12 programs covering hospitalization, sickness, disability or~~
~~13 death, supplemental unemployment benefits, strike benefits,~~
~~14 Social Security and retirement.~~

~~15 (7) Compensation received by United States servicemen~~
~~16 serving in a combat zone.~~

~~17 "Income allowance."~~

~~18 (1) As follows:~~

~~19 (i) Before July 1, 2011, \$10,000 for each eligible~~
~~20 student, eligible pre-kindergarten student and dependent~~

~~member of the household.~~

~~(ii) After June 30, 2011, \$12,000 for each eligible student, eligible pre-kindergarten student and dependent member of the household.~~

~~(2) Beginning July 1, 2012, the Department of Community and Economic Development shall annually adjust the income allowance amounts under paragraph (1) to reflect any upward changes in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the~~

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~~adjusted amounts to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.~~

~~"Innovative educational program." An advanced academic or similar program that is not part of the regular academic program of a public school but that enhances the curriculum or academic program of the public school or provides pre-kindergarten programs to public school students.~~

~~"Maximum annual household income."~~

~~(1) Except as set forth in paragraph (2), as follows:~~

~~(i) Before July 1, 2011, not more than \$50,000.~~

~~(ii) After June 30, 2011, not more than \$60,000.~~

~~(2) With respect to an eligible student with a disability, as calculated by multiplying:~~

~~(i) the sum of:~~

~~(A) the applicable amount under paragraph (1);~~

~~and~~

~~(B) the applicable income allowance; by~~

~~(ii) the applicable support level factor according to the following table:~~

20	Support Level	Support Level Factor
21	1	1.50
22	2	2.993

~~23 (3) Beginning July 1, 2012, the Department of Community~~
~~24 and Economic Development shall annually adjust the income~~
~~25 amounts under paragraphs (1) and (2) to reflect any upward~~
~~26 changes in the Consumer Price Index for All Urban Consumers~~
~~27 for the Pennsylvania, New Jersey, Delaware and Maryland area~~
~~28 in the preceding 12 months and shall immediately submit the~~
~~29 adjusted amounts to the Legislative Reference Bureau for~~
~~30 publication as a notice in the Pennsylvania Bulletin.~~

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~~1 "Pass through entity." A partnership as defined in section~~
~~2 301(n.0), a single member limited liability company treated as a~~
~~3 disregarded entity for Federal income tax purposes or a~~
~~4 Pennsylvania S corporation as defined in section 301(n.1).~~

~~5 "Pre kindergarten program." A program of instruction for~~
~~6 three year old or four year old students that utilizes a~~
~~7 curriculum aligned with the curriculum of the school with which~~
~~8 it is affiliated and which provides one of the following:~~

~~9 (1) A minimum of two hours of instructional and~~
~~10 developmental activities per day at least 60 days per school~~
~~11 year.~~

~~12 (2) A minimum of two hours of instructional and~~
~~13 developmental activities per day at least 20 days over the~~
~~14 summer recess.~~

~~15 "Pre kindergarten scholarship organization." A nonprofit~~
~~16 entity which:~~

~~17 (1) either is exempt from Federal taxation under section~~
~~18 501(c) (3) of the Internal Revenue Code of 1986 (Public Law~~
~~19 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate~~

~~segregated fund by a scholarship organization that has been
qualified under section 1703 F; and~~

~~(2) contributes at least 80% of its annual cash receipts
to a pre-kindergarten scholarship program by expending or
otherwise irrevocably encumbering those funds for
distribution during the then current fiscal year of the
organization or during the next succeeding fiscal year of the
organization.~~

~~"Pre-kindergarten scholarship program." A program to provide
tuition to eligible pre-kindergarten students to attend a pre-
kindergarten program operated by or in conjunction with a school~~

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~~located in this Commonwealth and that includes an application
and review process for the purpose of making awards to eligible
pre-kindergarten students and awards scholarships to eligible
pre-kindergarten students without limiting availability to only
students of one school.~~

~~"Public school." A public pre-kindergarten where compulsory
attendance requirements do not apply or a public kindergarten,
elementary school or secondary school at which the compulsory
attendance requirements of this Commonwealth may be met and
which meets the applicable requirements of Title VI of the Civil
Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).~~

~~"Scholarship organization." A nonprofit entity which:~~

~~(1) is exempt from Federal taxation under section 501(c)-
(3) of the Internal Revenue Code of 1986 (Public Law 99-514,
26 U.S.C. § 1 et seq.); and~~

~~(2) contributes at least 80% of its annual cash receipts
to a scholarship program.~~

~~For purposes of this definition, a nonprofit entity~~

~~"contributes" its annual cash receipts to a scholarship program~~

20 ~~when it expends or otherwise irrevocably encumbers those funds~~
21 ~~for distribution during the then current fiscal year of the~~
22 ~~nonprofit entity or during the next succeeding fiscal year of~~
23 ~~the nonprofit entity.~~

24 ~~"Scholarship program." A program to provide tuition to~~
25 ~~eligible students to attend a school located in this~~
26 ~~Commonwealth. A scholarship program must include an application~~
27 ~~and review process for the purpose of making awards to eligible~~
28 ~~students. The award of scholarships to eligible students shall~~
29 ~~be made without limiting availability to only students of one~~
30 ~~school.~~

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1 ~~"School." A public or nonpublic pre-kindergarten,~~
2 ~~kindergarten, elementary school or secondary school at which the~~
3 ~~compulsory attendance requirements of the Commonwealth may be~~
4 ~~met and which meets the applicable requirements of Title VI of~~
5 ~~the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).~~

6 ~~"School age." Children from the earliest admission age to a~~
7 ~~school's pre-kindergarten or kindergarten program or, when no~~
8 ~~pre-kindergarten or kindergarten program is provided, the~~
9 ~~school's earliest admission age for beginners, until the end of~~
10 ~~the school year the student attains 21 years of age or~~
11 ~~graduation from high school, whichever occurs first.~~

12 ~~"Special education school." A school or program within a~~
13 ~~school that is designated specifically and exclusively for~~
14 ~~students with any of the disabilities listed in 34 CFR § 300.8~~
15 ~~(relating to child with a disability) and meets one of the~~
16 ~~following:~~

17 ~~(1) Is licensed under the act of January 28, 1988~~
18 ~~(P.L.24, No.11), known as the Private Academic Schools Act.~~

19 ~~(2) Is accredited by an accrediting association approved~~

20 ~~by the State Board of Education.~~

21 ~~(3) Is a school for the blind or deaf receiving~~
22 ~~Commonwealth appropriations.~~

23 ~~(4) Is operated by or under the authority of a bona fide~~
24 ~~religious institution or by the Commonwealth or any political~~
25 ~~subdivision thereof.~~

26 ~~"Support level." The level of support needed by an eligible~~
27 ~~student with a disability, as set forth in the following matrix:~~

28 ~~Support Level 1 The student is not enrolled in a~~
29 ~~special education school.~~

30 ~~Support Level 2 The student is enrolled as a student in~~
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1 ~~a special education school.~~

2 ~~Section 1703-F. Qualification and application.~~

3 ~~(a) Establishment. In accordance with section 14 of Article~~
4 ~~III of the Constitution of Pennsylvania, an educational~~
5 ~~improvement tax credit program is hereby established to enhance~~
6 ~~the educational opportunities available to all students in this~~
7 ~~Commonwealth.~~

8 ~~(b) Information. In order to qualify under this article, a~~
9 ~~scholarship organization, a pre-kindergarten scholarship~~
10 ~~organization or an educational improvement organization must~~
11 ~~submit information to the department that enables the department~~
12 ~~to confirm that the organization is exempt from taxation under~~
13 ~~section 501(c)(3) of the Internal Revenue Code of 1986 (Public~~
14 ~~Law 99-514, 26 U.S.C. § 1 et seq.).~~

15 ~~(c) Scholarship organizations and pre-kindergarten~~
16 ~~scholarship organizations. A scholarship organization or pre-~~
17 ~~kindergarten scholarship organization must certify to the~~
18 ~~department that the organization is eligible to participate in~~
19 ~~the program established under this article and must agree to~~

20 ~~annually report the following information to the department by~~
21 ~~December 1, 2005, and September 1 of each year thereafter:~~

22 ~~(1) (i) The number of scholarships awarded during the~~
23 ~~immediately preceding school year to eligible pre-~~
24 ~~kindergarten students.~~

25 ~~(ii) The total and average amounts of the~~
26 ~~scholarships awarded during the immediately preceding~~
27 ~~school year to eligible pre kindergarten students.~~

28 ~~(iii) The number of scholarships awarded during the~~
29 ~~immediately preceding school year to eligible students in~~
30 ~~grades kindergarten through eight.~~

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1 ~~(iv) The total and average amounts of the~~
2 ~~scholarships awarded during the immediately preceding~~
3 ~~school year to eligible students in grades kindergarten~~
4 ~~through eight.~~

5 ~~(v) The number of scholarships awarded during the~~
6 ~~immediately preceding school year to eligible students in~~
7 ~~grades nine through 12.~~

8 ~~(vi) The total and average amounts of the~~
9 ~~scholarships awarded during the immediately preceding~~
10 ~~school year to eligible students in grades nine through~~
11 ~~12.~~

12 ~~(vii) Where the scholarship organization or pre-~~
13 ~~kindergarten scholarship organization collects~~
14 ~~information on a county by county basis, the total number~~
15 ~~and the total amount of scholarships awarded during the~~
16 ~~immediately preceding school year to residents of each~~
17 ~~county in which the scholarship organization or pre-~~
18 ~~kindergarten scholarship organization awarded~~
19 ~~scholarships.~~

~~(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than September 1, 2005, and May 1 of each year thereafter, the department shall annually distribute such sample forms, together with the forms on which the reports are required to be made, to each listed scholarship organization and pre-kindergarten scholarship organization.~~

~~(3) The department may not require any other information to be provided by scholarship organizations or pre-kindergarten scholarship organizations, except as expressly authorized in this article.~~

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~~(d) Educational improvement organization.~~

~~(1) An application submitted by an educational improvement organization must describe its proposed innovative educational program or programs in a form prescribed by the department. The department shall consult with the Department of Education as necessary. The department shall review and approve or disapprove the application. In order to be eligible to participate in the program established under this article, an educational improvement organization must agree to annually report the following information to the department by December 1, 2005, and September 1 of each year thereafter:~~

~~(i) The name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year.~~

~~(ii) A description of how each grant was utilized during the immediately preceding school year and a~~

~~description of any demonstrated or expected innovative educational improvements.~~

~~(iii) The names of the public schools and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented.~~

~~(iv) Where the educational improvement organization collects information on a county by county basis, the total number and the total amount of grants made during the immediately preceding school year for programs at public schools in each county in which the educational improvement organization made grants.~~

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~~(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than September 1, 2005, and May 1 of each year thereafter, the department shall annually distribute such sample forms, together with the forms on which the reports are required to be made, to each listed educational improvement organization.~~

~~(3) The department may not require any other information to be provided by educational improvement organizations, except as expressly authorized in this article.~~

~~(e) Notification. The department shall notify the scholarship organization, pre kindergarten scholarship organization or educational improvement organization that the organization meets the requirements of this article for that fiscal year no later than 60 days after the organization has submitted the information required under this section.~~

~~(f) Publication. The department shall annually publish a list of each scholarship organization, pre kindergarten scholarship organization or educational improvement organization~~

19 ~~qualified under this section in the Pennsylvania Bulletin. The~~
20 ~~list shall also be posted and updated as necessary on the~~
21 ~~publicly accessible Internet website of the department.~~

22 ~~Section 1704 F. Application.~~

23 ~~(a) Scholarship organization or pre-kindergarten scholarship~~
24 ~~organization. A business firm shall apply to the department for~~
25 ~~a tax credit under section 1705 F. A business firm shall receive~~
26 ~~a tax credit under this article if the scholarship organization~~
27 ~~or pre-kindergarten scholarship organization that receives the~~
28 ~~contribution appears on the list established under section 1703-~~
29 ~~F(f).~~

30 ~~(b) Educational improvement organization. A business firm~~
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1 ~~must apply to the department for a credit under section 1705 F.~~
2 ~~A business firm shall receive a tax credit under this article if~~
3 ~~the department has approved the program provided by the~~
4 ~~educational improvement organization that receives the~~
5 ~~contribution.~~

6 ~~(c) Availability of tax credits. Tax credits under this~~
7 ~~article shall be made available by the department on a first-~~
8 ~~come, first served basis within the limitation established under~~
9 ~~section 1706 F(a).~~

10 ~~(d) Contributions. A contribution by a business firm to a~~
11 ~~scholarship organization, pre-kindergarten scholarship~~
12 ~~organization or educational improvement organization shall be~~
13 ~~made no later than 60 days following the approval of an~~
14 ~~application under subsection (a) or (b).~~

15 ~~Section 1705 F. Tax credit.~~

16 ~~(a) Scholarship or educational improvement organizations.~~
17 ~~In accordance with section 1706 F(a), the Department of Revenue~~
18 ~~shall grant a tax credit against any tax due under Article III,~~

~~19 IV, VI, VII, VIII, IX or XV to a business firm providing proof
20 of a contribution to a scholarship organization or educational
21 improvement organization in the taxable year in which the
22 contribution is made which shall not exceed 75% of the total
23 amount contributed during the taxable year by the business firm.
24 Such credit shall not exceed \$300,000 annually per business firm
25 for contributions made to scholarship organizations or
26 educational improvement organizations.~~

~~27 (b) Additional amount. The Department of Revenue shall
28 grant a tax credit of up to 90% of the total amount contributed
29 during the taxable year if the business firm provides a written
30 commitment to provide the scholarship organization or~~

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~~1 educational improvement organization with the same amount of
2 contribution for two consecutive tax years. The business firm
3 must provide the written commitment under this subsection to the
4 department at the time of application.~~

~~5 (c) Pre kindergarten scholarship organizations. In
6 accordance with section 1706 F(a), the Department of Revenue
7 shall grant a tax credit against any tax due under Article III,
8 IV, VI, VII, VIII, IX or XV to a business firm providing proof
9 of a contribution to a pre kindergarten scholarship organization
10 in the taxable year in which the contribution is made which
11 shall be equal to 100% of the first \$10,000 contributed during
12 the taxable year by the business firm, and which shall not
13 exceed 90% of the remaining amount contributed during the
14 taxable year by the business firm. Such credit shall not exceed
15 \$150,000 annually per business firm for contributions made to
16 pre kindergarten scholarship organizations.~~

~~17 (d) Combination of tax credits. A business firm may receive
18 tax credits from the Department of Revenue in any tax year for~~

~~19 any combination of contributions under subsection (a) or (b) or~~
~~20 (c). In no case may a business firm receive tax credits in any~~
~~21 tax year in excess of \$300,000 for contributions under~~
~~22 subsections (a) and (b). In no case shall a business firm~~
~~23 receive tax credits in any tax year in excess of \$150,000 for~~
~~24 contributions under subsection (c).~~

~~25 (e) Pass through entity.~~

~~26 (1) If a pass through entity does not intend to use all~~
~~27 approved tax credits under this section, it may elect in~~
~~28 writing to transfer all or a portion of the credit to~~
~~29 shareholders, members or partners in proportion to the share~~
~~30 of the entity's distributive income to which the shareholder,~~

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~~1 member or partner is entitled for use in the taxable year in~~
~~2 which the contribution is made or in the taxable year~~
~~3 immediately following the year in which the contribution is~~
~~4 made. The election shall designate the year in which the~~
~~5 transferred credits are to be used and shall be made~~
~~6 according to procedures established by the Department of~~
~~7 Revenue.~~

~~8 (2) A pass through entity and a shareholder, member or~~
~~9 partner of a pass through entity shall not claim the credit~~
~~10 under this section for the same contribution.~~

~~11 (3) The shareholder, member or partner may not carry~~
~~12 forward, carry back, obtain a refund of or sell or assign the~~
~~13 credit.~~

~~14 (f) Restriction on applicability of credits. No credits~~
~~15 granted under this section shall be applied against any tax~~
~~16 withheld by an employer from an employee under Article III.~~

~~17 (g) Time of application for credits.~~

~~18 (1) Except as provided in paragraphs (2) and (3), the~~

19 ~~department may accept applications for tax credits available~~
20 ~~during a fiscal year no earlier than July 1 of each fiscal~~
21 ~~year.~~

22 ~~(2) The application of any business firm for tax credits~~
23 ~~available during a fiscal year as part of the second year of~~
24 ~~a two year commitment may be accepted no earlier than May 15~~
25 ~~preceding the fiscal year.~~

26 ~~(3) The application under subsection (a) of any pass-~~
27 ~~through entity for approval of single year tax credits~~
28 ~~available during a fiscal year against the taxes imposed~~
29 ~~under Article III or under subsection (b) for approval of~~
30 ~~credits against such taxes for the first year of a two year~~

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1 ~~commitment may be accepted by the department no earlier than~~
2 ~~the first business day following July 7 of the fiscal year.~~

3 ~~Section 1706 F. Limitations.~~

4 ~~(a) Amount.~~

5 ~~(1) The total aggregate amount of all tax credits~~
6 ~~approved shall not exceed \$67,000,000 in a fiscal year. No~~
7 ~~less than \$44,666,667 of the total aggregate amount shall be~~
8 ~~used to provide tax credits for contributions from business~~
9 ~~firms to scholarship organizations. No less than \$22,333,333~~
10 ~~of the total aggregate amount shall be used to provide tax~~
11 ~~credits for contributions from business firms to educational~~
12 ~~improvement organizations.~~

13 ~~(2) (i) For the fiscal years 2004-2005, 2005-2006 and~~
14 ~~2006-2007, the total aggregate amount of all tax credits~~
15 ~~approved for contributions from business firms to pre-~~

16 ~~kindergarten scholarship programs shall not exceed~~
17 ~~\$5,000,000 in a fiscal year.~~

18 ~~(ii) For the fiscal years 2007-2008 and each fiscal~~

18 ~~(ii) For the fiscal year 2007-2008 and each fiscal~~
19 ~~year thereafter, the total aggregate amount of all tax~~
20 ~~credits approved for contributions from business firms to~~
21 ~~pre-kindergarten scholarship programs shall not exceed~~
22 ~~\$8,000,000 in a fiscal year.~~

23 ~~(b) Activities. No tax credit shall be approved for~~
24 ~~activities that are a part of a business firm's normal course of~~
25 ~~business.~~

26 ~~(c) Tax liability.~~

27 ~~(1) Except as provided in paragraph (2), a tax credit~~
28 ~~granted for any one taxable year may not exceed the tax~~
29 ~~liability of a business firm.~~

30 ~~(2) In the case of a credit granted to a pass through~~

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1 ~~entity which elects to transfer the credit according to~~
2 ~~section 1705-F(e), a tax credit granted for any one taxable~~
3 ~~year and transferred to a shareholder, member or partner may~~
4 ~~not exceed the tax liability of the shareholder, member or~~
5 ~~partner.~~

6 ~~(d) Use. A tax credit not used by the applicant in the~~
7 ~~taxable year the contribution was made or in the year designated~~
8 ~~by the shareholder, member or partner to whom the credit was~~
9 ~~transferred under section 1705-F(e) may not be carried forward~~
10 ~~or carried back and is not refundable or transferable.~~

11 ~~(e) Nontaxable income. A scholarship received by an~~
12 ~~eligible student or eligible pre-kindergarten student shall not~~
13 ~~be considered to be taxable income for the purposes of Article~~
14 ~~III.~~

15 ~~Section 1707-F. Lists.~~

16 ~~The Department of Revenue shall provide a list of all~~
17 ~~scholarship organizations, pre-kindergarten scholarship~~
18 ~~organizations and educational improvement organizations~~

~~18 Organizations and Educational Improvement Organizations~~
~~19 receiving contributions from business firms granted a tax credit~~
~~20 under this article to the General Assembly by June 30th of each~~
~~21 year.~~

~~22 Section 1708 F. Guidelines.~~

~~23 The department in consultation with the Department of~~
~~24 Education shall develop guidelines to determine the eligibility~~
~~25 of an innovative educational program.]~~

26 SECTION 17. THE DEFINITIONS OF "BUSINESS FIRM," "EDUCATIONAL
27 IMPROVEMENT ORGANIZATION," "ELIGIBLE STUDENT WITH A DISABILITY,"
28 "INCOME ALLOWANCE," "INNOVATIVE EDUCATIONAL PROGRAM," "MAXIMUM
29 ANNUAL HOUSEHOLD INCOME," "PRE-KINDERGARTEN SCHOLARSHIP
30 ORGANIZATION," "PRE-KINDERGARTEN SCHOLARSHIP PROGRAM" AND

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1 "SCHOLARSHIP PROGRAM" IN SECTION 1702-F OF THE ACT, ADDED
2 OCTOBER 9, 2009 (P.L.451, NO.48), ARE AMENDED AND THE SECTION IS
3 AMENDED BY ADDING DEFINITIONS TO READ:

4 SECTION 1702-F. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
9 COMMONWEALTH AND SUBJECT TO TAXES IMPOSED UNDER ARTICLE III, IV,

10 VI, VII, VIII, IX OR XV OR A TAX UNDER ARTICLE XVI OF THE ACT OF
11 MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY
12 LAW OF 1921. THE TERM INCLUDES A PASS-THROUGH ENTITY.

13 * * *

14 "EDUCATIONAL IMPROVEMENT ORGANIZATION." A NONPROFIT ENTITY
15 WHICH:

16 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)

17 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,

18 26 U.S.C. § 1 ET SEQ.); AND

19 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL RECEIPTS AS
20 GRANTS TO A PUBLIC SCHOOL, A CHARTERED SCHOOL AS DEFINED IN
21 SECTION 1376.1 OF ACT OF MARCH 10, 1949 (P.L.30, NO.14),
22 KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, OR A PRIVATE SCHOOL
23 APPROVED UNDER SECTION 1376 OF THE PUBLIC SCHOOL CODE OF
24 1949, FOR INNOVATIVE EDUCATIONAL PROGRAMS.

25 FOR PURPOSES OF THIS DEFINITION, A NONPROFIT ENTITY
26 "CONTRIBUTES" ITS ANNUAL CASH RECEIPTS WHEN IT EXPENDS OR
27 OTHERWISE IRREVOCABLY ENCUMBERS THOSE FUNDS FOR EXPENDITURE
28 DURING THE THEN CURRENT FISCAL YEAR OF THE NONPROFIT ENTITY OR
29 DURING THE NEXT SUCCEEDING FISCAL YEAR OF THE NONPROFIT ENTITY.
30 A NONPROFIT ENTITY SHALL INCLUDE A SCHOOL DISTRICT FOUNDATION,

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1 PUBLIC SCHOOL FOUNDATION, CHARTER SCHOOL FOUNDATION OR CYBER
2 CHARTER SCHOOL FOUNDATION.
3 * * *

4 "ELIGIBLE STUDENT WITH A DISABILITY." A PRE-KINDERGARTEN
5 STUDENT OR A SCHOOL-AGE STUDENT WHO MEETS ALL OF THE FOLLOWING:

6 (1) IS [EITHER] ENROLLED IN A SPECIAL EDUCATION SCHOOL
7 OR HAS OTHERWISE BEEN IDENTIFIED, IN ACCORDANCE WITH 22 PA.
8 CODE CH. 14 (RELATING TO SPECIAL EDUCATION SERVICES AND
9 PROGRAMS), AS A "CHILD WITH A DISABILITY," AS DEFINED IN 34
10 CFR § 300.8 (RELATING TO CHILD WITH A DISABILITY).

11 (2) NEEDS SPECIAL EDUCATION AND RELATED SERVICES.

12 (3) IS ENROLLED IN A PRE-KINDERGARTEN PROGRAM OR IN A
13 SCHOOL.

14 (4) IS A MEMBER OF A HOUSEHOLD WITH A HOUSEHOLD INCOME
15 OF NOT MORE THAN THE MAXIMUM ANNUAL HOUSEHOLD INCOME.

16 * * *

17 "INCOME ALLOWANCE."

18 (1) AS FOLLOWS:

19 (I) BEFORE JULY 1, 2011, \$10,000 FOR EACH ELIGIBLE
20 STUDENT, ELIGIBLE PRE-KINDERGARTEN STUDENT AND DEPENDENT
21 MEMBER OF THE HOUSEHOLD.

22 (II) AFTER JUNE 30, 2011, AND THROUGH JUNE 30, 2013,
23 \$12,000 FOR EACH ELIGIBLE STUDENT, ELIGIBLE PRE-
24 KINDERGARTEN STUDENT AND DEPENDENT MEMBER OF THE
25 HOUSEHOLD.

26 (III) AFTER JUNE 30, 2013, AND THROUGH JUNE 30,
27 2014, \$15,000 FOR EACH ELIGIBLE STUDENT, ELIGIBLE PRE-
28 KINDERGARTEN STUDENT AND DEPENDENT MEMBER OF THE
29 HOUSEHOLD.

30 (2) BEGINNING JULY 1, [2012] 2014, THE DEPARTMENT OF
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1 COMMUNITY AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE
2 INCOME ALLOWANCE AMOUNTS UNDER PARAGRAPH (1) TO REFLECT ANY
3 UPWARD CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN
4 CONSUMERS FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND
5 MARYLAND AREA IN THE PRECEDING 12 MONTHS AND SHALL
6 IMMEDIATELY SUBMIT THE ADJUSTED AMOUNTS TO THE LEGISLATIVE
7 REFERENCE BUREAU FOR PUBLICATION AS A NOTICE IN THE
8 PENNSYLVANIA BULLETIN.

9 "INNOVATIVE EDUCATIONAL PROGRAM." AN ADVANCED ACADEMIC OR
10 SIMILAR PROGRAM THAT IS NOT PART OF THE REGULAR ACADEMIC PROGRAM
11 OF A PUBLIC SCHOOL BUT THAT ENHANCES THE CURRICULUM OR ACADEMIC
12 PROGRAM OF THE PUBLIC SCHOOL [OR PROVIDES PRE-KINDERGARTEN
13 PROGRAMS TO PUBLIC SCHOOL STUDENTS.], CHARTERED SCHOOL OR
14 PRIVATE SCHOOL, OR PROVIDES PRE-KINDERGARTEN PROGRAMS TO PUBLIC
15 SCHOOL STUDENTS, STUDENTS OF A CHARTERED SCHOOL OR STUDENTS OF A
16 PRIVATE SCHOOL. FOR THE PURPOSES OF THIS DEFINITION, A CHARTERED
17 SCHOOL SHALL MEAN A CHARTERED SCHOOL AS DEFINED IN SECTION

1 / SCHOOL SHALL MEAN A CHARTERED SCHOOL AS DEFINED IN SECTION
 18 1376.1 OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS
 19 THE PUBLIC SCHOOL CODE OF 1949, AND A PRIVATE SCHOOL SHALL MEAN
 20 A PRIVATE SCHOOL APPROVED UNDER SECTION 1376 OF THE PUBLIC
 21 SCHOOL CODE OF 1949.

22 "MAXIMUM ANNUAL HOUSEHOLD INCOME."

23 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2) AND SUBJECT TO
 24 PARAGRAPH (3), AS FOLLOWS:

25 (I) BEFORE JULY 1, 2011, NOT MORE THAN \$50,000.

26 (II) AFTER JUNE 30, 2011, AND THROUGH JUNE 30, 2013,
 27 NOT MORE THAN \$60,000.

28 (III) AFTER JUNE 30, 2013, NOT MORE THAN \$75,000.

29 (2) WITH RESPECT TO AN ELIGIBLE STUDENT WITH A
 30 DISABILITY, AS CALCULATED BY MULTIPLYING:

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1 (I) THE SUM OF:

2 (A) THE APPLICABLE AMOUNT UNDER PARAGRAPH (1);

3 AND

4 (B) THE APPLICABLE INCOME ALLOWANCE; BY

5 (II) THE APPLICABLE SUPPORT LEVEL FACTOR ACCORDING TO
 6 THE FOLLOWING TABLE:

SUPPORT LEVEL	SUPPORT LEVEL FACTOR
1	1.50
2	2.993

10 (3) BEGINNING JULY 1, [2012] 2014, THE DEPARTMENT OF
 11 COMMUNITY AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE
 12 INCOME AMOUNTS UNDER PARAGRAPHS (1) AND (2) TO REFLECT ANY
 13 UPWARD CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN
 14 CONSUMERS FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND
 15 MARYLAND AREA IN THE PRECEDING 12 MONTHS AND SHALL
 16 IMMEDIATELY SUBMIT THE ADJUSTED AMOUNTS TO THE LEGISLATIVE
 17 REFERENCE BUREAU FOR PUBLICATION AS A NOTICE IN THE

18 PENNSYLVANIA BULLETIN.

19 * * *

20 "PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION." A NONPROFIT
21 ENTITY WHICH:

22 (1) [EITHER] IS EXEMPT FROM FEDERAL TAXATION UNDER
23 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986
24 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.) OR IS OPERATED AS
25 A SEPARATE SEGREGATED FUND BY A SCHOLARSHIP ORGANIZATION THAT
26 HAS BEEN QUALIFIED UNDER SECTION 1703-F; AND

27 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL CASH RECEIPTS
28 TO A PRE-KINDERGARTEN SCHOLARSHIP PROGRAM BY EXPENDING OR
29 OTHERWISE IRREVOCABLY ENCUMBERING THOSE FUNDS FOR
30 DISTRIBUTION DURING THE THEN CURRENT FISCAL YEAR OF THE

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1 ORGANIZATION OR DURING THE NEXT SUCCEEDING FISCAL YEAR OF THE
2 ORGANIZATION.

3 "PRE-KINDERGARTEN SCHOLARSHIP PROGRAM." A PROGRAM TO PROVIDE
4 TUITION TO ELIGIBLE PRE-KINDERGARTEN STUDENTS TO ATTEND A PRE-
5 KINDERGARTEN PROGRAM OPERATED BY OR IN CONJUNCTION WITH A SCHOOL
6 LOCATED IN THIS COMMONWEALTH AND THAT INCLUDES AN APPLICATION
7 AND REVIEW PROCESS FOR THE PURPOSE OF MAKING AWARDS TO ELIGIBLE
8 PRE-KINDERGARTEN STUDENTS AND AWARDS SCHOLARSHIPS TO ELIGIBLE
9 PRE-KINDERGARTEN STUDENTS WITHOUT LIMITING AVAILABILITY TO ONLY
10 STUDENTS OF ONE SCHOOL OR ONE BUILDING WITHIN A SCHOOL DISTRICT
11 OR NONPUBLIC SCHOOL ENTITY.

12 * * *

13 "SCHOLARSHIP." AN AWARD UNDER A SCHOLARSHIP PROGRAM TO PAY
14 TUITION AND SCHOOL-RELATED FEES TO ATTEND A SCHOOL.

15 * * *

16 "SCHOLARSHIP PROGRAM." A PROGRAM TO PROVIDE TUITION AND

17 SCHOOL-RELATED FEES TO ELIGIBLE STUDENTS TO ATTEND A SCHOOL
18 LOCATED IN THIS COMMONWEALTH. A SCHOLARSHIP PROGRAM MUST INCLUDE
19 AN APPLICATION AND REVIEW PROCESS FOR THE PURPOSE OF MAKING
20 AWARDS TO ELIGIBLE STUDENTS. THE AWARD OF SCHOLARSHIPS TO
21 ELIGIBLE STUDENTS SHALL BE MADE WITHOUT LIMITING AVAILABILITY TO
22 ONLY STUDENTS OF ONE SCHOOL OR ONE BUILDING WITHIN A SCHOOL
23 DISTRICT OR NONPUBLIC SCHOOL ENTITY.

24 * * *

25 "SCHOOL-RELATED FEES." FEES CHARGED BY A SCHOOL TO ALL
26 STUDENTS FOR BOOKS, INSTRUCTIONAL MATERIALS, TECHNOLOGY
27 EQUIPMENT AND SERVICES, UNIFORMS AND ACTIVITIES.

28 * * *

29 SECTION 18. SECTIONS 1703-F(C) AND (D), 1705-F AND 1706-F OF
30 THE ACT, ADDED OCTOBER 9, 2009 (P.L.451, NO.48), ARE AMENDED TO
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1 READ:

2 SECTION 1703-F. QUALIFICATION AND APPLICATION.

3 * * *

4 (C) SCHOLARSHIP ORGANIZATIONS AND PRE-KINDERGARTEN
5 SCHOLARSHIP ORGANIZATIONS.--A SCHOLARSHIP ORGANIZATION OR PRE-
6 KINDERGARTEN SCHOLARSHIP ORGANIZATION MUST CERTIFY TO THE
7 DEPARTMENT THAT THE ORGANIZATION IS ELIGIBLE TO PARTICIPATE IN
8 THE PROGRAM ESTABLISHED UNDER THIS ARTICLE AND MUST AGREE TO
9 ANNUALLY REPORT THE FOLLOWING INFORMATION TO THE DEPARTMENT BY

10 [DECEMBER 1, 2005, AND] SEPTEMBER 1 OF EACH YEAR [THEREAFTER]:
11 (1) (I) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
12 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE PRE-
13 KINDERGARTEN STUDENTS.

14 (II) THE TOTAL AND AVERAGE AMOUNTS OF THE
15 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
16 SCHOOL YEAR TO ELIGIBLE PRE-KINDERGARTEN STUDENTS.

(III) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES KINDERGARTEN THROUGH EIGHT.

(IV) THE TOTAL AND AVERAGE AMOUNTS OF THE SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES KINDERGARTEN THROUGH EIGHT.

(V) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES NINE THROUGH 12.

(VI) THE TOTAL AND AVERAGE AMOUNTS OF THE SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES NINE THROUGH 12.

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(VII) WHERE THE SCHOLARSHIP ORGANIZATION OR PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION COLLECTS INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE TOTAL NUMBER AND THE TOTAL AMOUNT OF SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR TO RESIDENTS OF EACH COUNTY IN WHICH THE SCHOLARSHIP ORGANIZATION OR PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION AWARDED SCHOLARSHIPS.

(VIII) THE TOTAL NUMBER OF SCHOLARSHIP APPLICATIONS PROCESSED, THE AMOUNTS OF ANY APPLICATION FEES CHARGED, EITHER PER SCHOLARSHIP APPLICATION OR IN THE AGGREGATE THROUGH A THIRD-PARTY PROCESSOR.

(IX) THE ORGANIZATION'S FEDERAL FORM 990 OR OTHER FEDERAL FORM INDICATING THE TAX STATUS OF THE ORGANIZATION FOR FEDERAL TAX PURPOSES, IF ANY, AND A COPY

16 OF A COMPILATION, REVIEW OR AUDIT OF THE ORGANIZATION'S
17 FINANCIAL STATEMENTS CONDUCTED BY A CERTIFIED PUBLIC
18 ACCOUNTING FIRM.

19 (2) THE INFORMATION REQUIRED UNDER PARAGRAPH (1) SHALL
20 BE SUBMITTED ON A FORM PROVIDED BY THE DEPARTMENT. NO LATER
21 THAN [SEPTEMBER 1, 2005, AND] MAY 1 OF EACH YEAR
22 [THEREAFTER], THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH
23 SAMPLE FORMS, TOGETHER WITH THE FORMS ON WHICH THE REPORTS
24 ARE REQUIRED TO BE MADE, TO EACH LISTED SCHOLARSHIP
25 ORGANIZATION AND PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION.

26 (3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION
27 TO BE PROVIDED BY SCHOLARSHIP ORGANIZATIONS OR PRE-
28 KINDERGARTEN SCHOLARSHIP ORGANIZATIONS, EXCEPT AS EXPRESSLY
29 AUTHORIZED IN THIS ARTICLE.

30 (D) EDUCATIONAL IMPROVEMENT ORGANIZATION.--

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1 (1) AN APPLICATION SUBMITTED BY AN EDUCATIONAL
2 IMPROVEMENT ORGANIZATION MUST DESCRIBE ITS PROPOSED
3 INNOVATIVE EDUCATIONAL PROGRAM OR PROGRAMS IN A FORM
4 PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT SHALL CONSULT
5 WITH THE DEPARTMENT OF EDUCATION AS NECESSARY. THE DEPARTMENT
6 SHALL REVIEW AND APPROVE OR DISAPPROVE THE APPLICATION. IN
7 ORDER TO BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM
8 ESTABLISHED UNDER THIS ARTICLE, AN EDUCATIONAL IMPROVEMENT
9 ORGANIZATION MUST AGREE TO ANNUALLY REPORT THE FOLLOWING
10 INFORMATION TO THE DEPARTMENT BY DECEMBER 1, 2005, AND
11 SEPTEMBER 1 OF EACH YEAR THEREAFTER:

12 (I) THE NAME OF THE INNOVATIVE EDUCATIONAL PROGRAM
13 OR PROGRAMS AND THE TOTAL AMOUNT OF THE GRANT OR GRANTS
14 MADE TO THOSE PROGRAMS DURING THE IMMEDIATELY PRECEDING
15 SCHOOL YEAR.

(II) A DESCRIPTION OF HOW EACH GRANT WAS UTILIZED DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR AND A DESCRIPTION OF ANY DEMONSTRATED OR EXPECTED INNOVATIVE EDUCATIONAL IMPROVEMENTS.

(III) THE NAMES OF THE PUBLIC SCHOOLS AND SCHOOL DISTRICTS WHERE INNOVATIVE EDUCATIONAL PROGRAMS THAT RECEIVED GRANTS DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR WERE IMPLEMENTED.

(IV) WHERE THE EDUCATIONAL IMPROVEMENT ORGANIZATION COLLECTS INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE TOTAL NUMBER AND THE TOTAL AMOUNT OF GRANTS MADE DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR FOR PROGRAMS AT PUBLIC SCHOOLS IN EACH COUNTY IN WHICH THE EDUCATIONAL IMPROVEMENT ORGANIZATION MADE GRANTS.

(V) THE ORGANIZATION'S FEDERAL FORM 990 OR OTHER

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FEDERAL FORM INDICATING THE TAX STATUS OF THE ORGANIZATION FOR FEDERAL TAX PURPOSES, IF ANY, AND A COPY OF A COMPILATION, REVIEW OR AUDIT OF THE ORGANIZATION'S FINANCIAL STATEMENTS CONDUCTED BY A CERTIFIED PUBLIC ACCOUNTING FIRM.

(2) THE INFORMATION REQUIRED UNDER PARAGRAPH (1) SHALL BE SUBMITTED ON A FORM PROVIDED BY THE DEPARTMENT. NO LATER THAN SEPTEMBER 1, 2005, AND MAY 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH SAMPLE FORMS, TOGETHER WITH THE FORMS ON WHICH THE REPORTS ARE REQUIRED TO BE MADE, TO EACH LISTED EDUCATIONAL IMPROVEMENT ORGANIZATION.

(3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION TO BE PROVIDED BY EDUCATIONAL IMPROVEMENT ORGANIZATIONS, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS ARTICLE.

15 * * *

16 SECTION 1705-F. TAX CREDIT.

17 (A) SCHOLARSHIP OR EDUCATIONAL IMPROVEMENT ORGANIZATIONS.--
18 IN ACCORDANCE WITH SECTION 1706-F(A), THE DEPARTMENT OF REVENUE
19 SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III,
20 IV, VI, VII, VIII, IX OR XV OR UNDER ARTICLE XVI OF THE ACT OF
21 MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY
22 LAW OF 1921, TO A BUSINESS FIRM PROVIDING PROOF OF A
23 CONTRIBUTION TO A SCHOLARSHIP ORGANIZATION OR EDUCATIONAL
24 IMPROVEMENT ORGANIZATION IN THE TAXABLE YEAR IN WHICH THE
25 CONTRIBUTION IS MADE WHICH SHALL NOT EXCEED 75% OF THE TOTAL
26 AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY THE BUSINESS FIRM.
27 [SUCH] FOR FISCAL YEAR 2012-2013, THE TAX CREDIT SHALL NOT
28 EXCEED [\$300,000] \$400,000 ANNUALLY PER BUSINESS FIRM FOR
29 CONTRIBUTIONS MADE TO SCHOLARSHIP ORGANIZATIONS OR EDUCATIONAL
30 IMPROVEMENT ORGANIZATIONS. FOR FISCAL YEAR 2013-2014, AND EACH
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1 FISCAL YEAR THEREAFTER, THE TAX CREDIT SHALL NOT EXCEED \$750,000
2 ANNUALLY PER BUSINESS FIRM FOR CONTRIBUTIONS MADE TO SCHOLARSHIP
3 ORGANIZATIONS OR EDUCATIONAL IMPROVEMENT ORGANIZATIONS.

4 (B) ADDITIONAL AMOUNT.--THE DEPARTMENT OF REVENUE SHALL
5 GRANT A TAX CREDIT OF UP TO 90% OF THE TOTAL AMOUNT CONTRIBUTED
6 DURING THE TAXABLE YEAR IF THE BUSINESS FIRM PROVIDES A WRITTEN
7 COMMITMENT TO PROVIDE THE SCHOLARSHIP ORGANIZATION OR
8 EDUCATIONAL IMPROVEMENT ORGANIZATION WITH THE SAME AMOUNT OF
9 CONTRIBUTION FOR TWO CONSECUTIVE TAX YEARS. THE BUSINESS FIRM
10 MUST PROVIDE THE WRITTEN COMMITMENT UNDER THIS SUBSECTION TO THE
11 DEPARTMENT AT THE TIME OF APPLICATION.

12 (C) PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATIONS.--IN
13 ACCORDANCE WITH SECTION 1706-F(A), THE DEPARTMENT OF REVENUE
14 SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III,
15 IV, VI, VII, VIII, IX OR XV OR UNDER ARTICLE XVI OF THE

15 IV, VI, VII, VIII, IX OR X OR UNDER ARTICLE XVI OF THE
16 INSURANCE COMPANY LAW OF 1921 TO A BUSINESS FIRM PROVIDING PROOF
17 OF A CONTRIBUTION TO A PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION
18 IN THE TAXABLE YEAR IN WHICH THE CONTRIBUTION IS MADE WHICH
19 SHALL BE EQUAL TO 100% OF THE FIRST \$10,000 CONTRIBUTED DURING
20 THE TAXABLE YEAR BY THE BUSINESS FIRM, AND WHICH SHALL NOT
21 EXCEED 90% OF THE REMAINING AMOUNT CONTRIBUTED DURING THE
22 TAXABLE YEAR BY THE BUSINESS FIRM. SUCH CREDIT SHALL NOT EXCEED
23 [\$150,000] \$200,000 ANNUALLY PER BUSINESS FIRM FOR CONTRIBUTIONS
24 MADE TO PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATIONS.

25 (D) COMBINATION OF TAX CREDITS.--A BUSINESS FIRM MAY RECEIVE
26 TAX CREDITS FROM THE DEPARTMENT OF REVENUE IN ANY TAX YEAR FOR
27 ANY COMBINATION OF CONTRIBUTIONS UNDER SUBSECTION (A) OR (B) OR
28 (C). IN NO CASE MAY A BUSINESS FIRM RECEIVE TAX CREDITS IN ANY
29 TAX YEAR IN EXCESS OF [\$300,000] \$400,000 FOR CONTRIBUTIONS
30 UNDER SUBSECTIONS (A) AND (B) MADE DURING FISCAL YEAR 2012-2013
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1 OR IN EXCESS OF \$750,000 FOR CONTRIBUTIONS UNDER SUBSECTIONS (A)
2 AND (B) MADE AFTER FISCAL YEAR 2012-2013. IN NO CASE SHALL A
3 BUSINESS FIRM RECEIVE TAX CREDITS IN ANY TAX YEAR IN EXCESS OF
4 [\$150,000] \$200,000 FOR CONTRIBUTIONS UNDER SUBSECTION (C).

5 (E) PASS-THROUGH ENTITY.--

6 (1) IF A PASS-THROUGH ENTITY DOES NOT INTEND TO USE ALL
7 APPROVED TAX CREDITS UNDER THIS SECTION, IT MAY ELECT IN
8 WRITING TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
9 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE
10 OF THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
11 MEMBER OR PARTNER IS ENTITLED FOR USE IN THE TAXABLE YEAR IN
12 WHICH THE CONTRIBUTION IS MADE OR IN THE TAXABLE YEAR
13 IMMEDIATELY FOLLOWING THE YEAR IN WHICH THE CONTRIBUTION IS
14 MADE. THE ELECTION SHALL DESIGNATE THE YEAR IN WHICH THE
15 TRANSFERRED CREDITS ARE TO BE USED AND SHALL BE MADE

TRANSFERRED CREDITS ARE TO BE USED AND CANNOT BE MADE
ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF
REVENUE.

(2) A PASS-THROUGH ENTITY AND A SHAREHOLDER, MEMBER OR
PARTNER OF A PASS-THROUGH ENTITY SHALL NOT CLAIM THE CREDIT
UNDER THIS SECTION FOR THE SAME CONTRIBUTION.

(3) THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT CARRY
FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN THE
CREDIT.

(F) RESTRICTION ON APPLICABILITY OF CREDITS.--NO CREDITS
GRANTED UNDER THIS SECTION SHALL BE APPLIED AGAINST ANY TAX
WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

(G) TIME OF APPLICATION FOR CREDITS.--

(1) EXCEPT AS PROVIDED IN [PARAGRAPHS (2) AND (3)]
PARAGRAPH (2), THE DEPARTMENT MAY ACCEPT APPLICATIONS FOR TAX
CREDITS AVAILABLE DURING A FISCAL YEAR NO EARLIER THAN JULY 1

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OF EACH FISCAL YEAR.

(2) THE APPLICATION OF ANY BUSINESS FIRM FOR TAX CREDITS
AVAILABLE DURING A FISCAL YEAR AS PART OF THE SECOND YEAR OF
A TWO-YEAR COMMITMENT OR AS A RENEWAL OF A TWO-YEAR
COMMITMENT WHICH WAS FULFILLED IN THE PREVIOUS FISCAL YEAR
MAY BE ACCEPTED NO EARLIER THAN MAY 15 PRECEDING THE FISCAL
YEAR.

[(3) THE APPLICATION UNDER SUBSECTION (A) OF ANY PASS-
THROUGH ENTITY FOR APPROVAL OF SINGLE-YEAR TAX CREDITS
AVAILABLE DURING A FISCAL YEAR AGAINST THE TAXES IMPOSED
UNDER ARTICLE III OR UNDER SUBSECTION (B) FOR APPROVAL OF
CREDITS AGAINST SUCH TAXES FOR THE FIRST YEAR OF A TWO-YEAR
COMMITMENT MAY BE ACCEPTED BY THE DEPARTMENT NO EARLIER THAN
THE FIRST BUSINESS DAY FOLLOWING JULY 7 OF THE FISCAL YEAR.]

15 SECTION 1706-F. LIMITATIONS.

16 (A) AMOUNT.--

17 (1) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
18 APPROVED SHALL NOT EXCEED [\$67,000,000] \$100,000,000 IN A
19 FISCAL YEAR. NO LESS THAN [\$44,666,667] \$60,000,000 OF THE
20 TOTAL AGGREGATE AMOUNT SHALL BE USED TO PROVIDE TAX CREDITS
21 FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO SCHOLARSHIP
22 ORGANIZATIONS. NO LESS THAN [\$22,333,333] \$30,000,000 OF THE
23 TOTAL AGGREGATE AMOUNT SHALL BE USED TO PROVIDE TAX CREDITS
24 FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO EDUCATIONAL
25 IMPROVEMENT ORGANIZATIONS.

26 (2) THE FOLLOWING APPLY TO SPECIFIC FISCAL YEARS:

27 (I) FOR [THE] FISCAL YEARS 2004-2005, 2005-2006 AND
28 2006-2007, THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
29 APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO PRE-
30 KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED

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1 \$5,000,000 IN A FISCAL YEAR.

2 (II) FOR [THE] FISCAL [YEAR] YEARS 2007-2008,
3 2008-2009, 2009-2010, 2010-2011 AND [EACH FISCAL YEAR
4 THEREAFTER] 2011-2012, THE TOTAL AGGREGATE AMOUNT OF ALL
5 TAX CREDITS APPROVED FOR CONTRIBUTIONS FROM BUSINESS
6 FIRMS TO PRE-KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT
7 EXCEED \$8,000,000 IN A FISCAL YEAR.

8 (III) FOR FISCAL YEAR 2012-2013 AND EACH FISCAL YEAR
9 THEREAFTER, THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
10 APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO PRE-
11 KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED
12 \$10,000,000 IN A FISCAL YEAR.

13 (B) ACTIVITIES.--NO TAX CREDIT SHALL BE APPROVED FOR

14 ACTIVITIES THAT ARE A PART OF A BUSINESS FIRM'S NORMAL COURSE OF

14 ACTIVITIES THAT ARE A PART OF A BUSINESS FIRM'S NORMAL COURSE OF
15 BUSINESS.

16 (C) TAX LIABILITY.--

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A TAX CREDIT
18 GRANTED FOR ANY ONE TAXABLE YEAR MAY NOT EXCEED THE TAX
19 LIABILITY OF A BUSINESS FIRM.

20 (2) IN THE CASE OF A CREDIT GRANTED TO A PASS-THROUGH
21 ENTITY WHICH ELECTS TO TRANSFER THE CREDIT ACCORDING TO
22 SECTION 1705-F(E), A TAX CREDIT GRANTED FOR ANY ONE TAXABLE
23 YEAR AND TRANSFERRED TO A SHAREHOLDER, MEMBER OR PARTNER MAY
24 NOT EXCEED THE TAX LIABILITY OF THE SHAREHOLDER, MEMBER OR
25 PARTNER.

26 (D) USE.--A TAX CREDIT NOT USED BY THE APPLICANT IN THE
27 TAXABLE YEAR THE CONTRIBUTION WAS MADE OR IN THE YEAR DESIGNATED
28 BY THE SHAREHOLDER, MEMBER OR PARTNER TO WHOM THE CREDIT WAS
29 TRANSFERRED UNDER SECTION 1705-F(E) MAY NOT BE CARRIED FORWARD
30 OR CARRIED BACK AND IS NOT REFUNDABLE OR TRANSFERABLE.

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1 (E) NONTAXABLE INCOME.--A SCHOLARSHIP RECEIVED BY AN
2 ELIGIBLE STUDENT OR ELIGIBLE PRE-KINDERGARTEN STUDENT SHALL NOT
3 BE CONSIDERED TO BE TAXABLE INCOME FOR THE PURPOSES OF ARTICLE
4 III.

5 Section 19. The act is amended by adding articles to read:

6 ARTICLE XVII-G

7 RESOURCE MANUFACTURING TAX CREDIT

8 Section 1701-G. Scope.

9 This article establishes a resource manufacturing tax credit.

10 Section 1702-G. Definitions.

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

14 "Company." Any corporation, partnership, limited liability

17 company. Any corporation, partnership, limited liability
15 company, limited liability partnership, business trust,
16 affiliate, unincorporated joint venture or other business
17 entity, doing business within this Commonwealth.

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

19 "Downstream company." Includes a company that uses chemical
20 products or chemical compounds manufactured or processed by a
21 qualified taxpayer as a raw material in its production process
22 in this Commonwealth.

23 "Ethane." A colorless, odorless gaseous alkane, C₂H₆, which
24 occurs as a constituent of natural gas and is used as the raw
25 material in the manufacturing of ethylene.

26 "Ethylene." An organic hydrocarbon compound with the formula
27 C₂H₄ or H₂C=CH₂, that is derived from natural gas and petroleum.

28 "Gallon." A United States liquid gallon equal to a volume of
29 231 cubic inches and equal to 3.785411784 liters or 0.13368

30 cubic feet, where volumetric measurements made at ambient

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1 flowing conditions are typically adjusted for composition and to
2 standard conditions using established industry standard
3 practices.

4 "Pass-through entity." Any of the following:

5 (1) A partnership as defined in section 301(n.0).

6 (2) A Pennsylvania S corporation as defined in section
7 301(n.1).

8 (3) An unincorporated entity subject to section 307.21.

9 "Qualified tax liability." The liability for taxes imposed
10 under Articles III, IV, VI, VII, VIII, IX, XI and XV. The term
11 does not include tax withheld under section 316.

12 "Qualified taxpayer." A company that satisfies all of the
13 following:

(a) Rate.--The tax credit shall be equal to \$0.05 per gallon

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13 (c) Review and approval.--

14 (1) The department shall review and approve or
15 disapprove the applications by March 20.

16 (2) Upon approval, the department shall issue a
17 certificate stating the amount of tax credit granted for
18 ethane purchased in the prior calendar year.

19 Section 1704-G. Use of tax credits.

20 (a) Initial use.--Prior to sale or assignment of a tax
21 credit under section 1706-G, a qualified taxpayer must first use
22 a tax credit against the qualified tax liability incurred in the
23 taxable year for which the tax credit was approved.

24 (b) Eligibility.--The credit may be applied against up to
25 20% of the qualified taxpayer's qualified tax liabilities
26 incurred in the taxable year for which the credit was approved.

27 (c) Application.--The tax credit shall be applied against
28 the qualified taxpayer's liability only after all other
29 statutory tax credits and deductions available to the qualified
30 taxpayer have been used.

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1 (d) Limit.--A qualified taxpayer that has been granted a tax
2 credit under this article shall be ineligible for any other tax
3 credit provided under this act.

4 Section 1705-G. Carryover, carryback and refund.

5 A tax credit cannot be carried back, carried forward or be
6 used to obtain a refund.

7 Section 1706-G. Sale or assignment.

8 (a) Authorization.--If a qualified taxpayer holds a tax
9 credit through the end of the calendar year in which the tax
10 credit was granted, the qualified taxpayer may sell or assign a
11 tax credit, in whole or in part.

12 (b) Application.--

13 (1) To sell or assign a tax credit, a qualified taxpayer

14 must file an application for the sale or assignment of the
15 tax credit with the Department of Community and Economic
16 Development. The application must be on a form required by
17 the Department of Community and Economic Development.

18 (2) To approve an application, the Department of
19 Community and Economic Development must receive:

20 (i) a finding from the department that the applicant
21 has:

22 (A) filed all required State tax reports and
23 returns for all applicable taxable years; and

24 (B) paid any balance of State tax due as
25 determined by assessment or determination by the
26 department and not under timely appeal; and

27 (ii) in the case of a sale or assignment to a
28 company that is not an upstream company or downstream
29 company, a certification from the qualified taxpayer that
30 the qualified taxpayer had offered to sell or assign the

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1 tax credit:

2 (A) exclusively to a downstream company for a
3 period of 30 days following approval of the tax
4 credit under section 1703-G(c); and

5 (B) to an upstream company or downstream company
6 for a period of 30 days following expiration of the
7 period under clause (A).

8 (c) Approval.--Upon approval by the Department of Community
9 and Economic Development, a qualified taxpayer may sell or
10 assign, in whole or in part, a tax credit.

11 Section 1707-G. Purchasers and assignees.

12 (a) Time.--The purchaser or assignee under section 1706-G

13 must claim the tax credit in the calendar year in which the
14 purchase or assignment is made.

15 (b) Amount.--The amount of the tax credit that a purchaser
16 or assignee under section 1706-G may use against any one
17 qualified tax liability may not exceed 50% of any of the
18 qualified tax liabilities for the taxable year.

19 (c) Resale and reassignment.--

20 (1) A purchaser under section 1706-G may not sell or
21 assign the purchased tax credit.

22 (2) An assignee under section 1706-G may not sell or
23 assign the assigned tax credit.

24 (d) Notice.--The purchaser or assignee under section 1706-G
25 shall notify the department of the seller or assignor of the tax
26 credit in compliance with procedures specified by the
27 department.

28 Section 1708-G. Pass-through entity.

29 (a) Election.--If a pass-through entity has an unused tax
30 credit, it may elect in writing, according to procedures

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1 established by the department, to transfer all or a portion of
2 the credit to shareholders, members or partners in proportion to
3 the share of the entity's distributive income to which the
4 shareholders, members or partners are entitled.

5 (b) Limitation.--The same unused tax credit under subsection
6 (a) may not be claimed by:

7 (1) the pass-through entity; and

8 (2) a shareholder, member or partner of the pass-through
9 entity.

10 (c) Amount.--The amount of the tax credit that a transferee
11 under subsection (a) may use against any one qualified tax
12 liability may not exceed 20% of any qualified tax liabilities
13 for the taxable year.

13 for the taxable year.

14 (d) Time.--A transferee under subsection (a) must claim the
15 tax credit in the calendar year in which the transfer is made.

16 (e) Sale and assignment.--A transferee under subsection (a)
17 may not sell or assign the tax credit.

18 Section 1709-G. Administration.

19 (a) Audits and assessments.--The department has the
20 following powers:

21 (1) To audit a qualified taxpayer claiming a tax credit
22 to ascertain the validity of the amount claimed.

23 (2) To issue an assessment against a qualified taxpayer
24 for an improperly issued tax credit. The procedures,
25 collection, enforcement and appeals of any assessment made
26 under this section shall be governed by Article II.

27 (b) Guidelines and regulations.--The department shall
28 develop written guidelines for the implementation of this
29 article. The guidelines shall be in effect until the department
30 promulgates regulations for the implementation of the provisions

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1 of this article.

2 Section 1710-G. Reports to General Assembly.

3 (a) Annual report.--By October 1, 2018, and October 1 of
4 each year thereafter, the department shall submit a report on
5 the tax credit provided by this article to the chairman and
6 minority chairman of the Appropriations Committee of the Senate,
7 the chairman and minority chairman of the Finance Committee of
8 the Senate, the chairman and minority chairman of the
9 Appropriations Committee of the House of Representatives and the
10 chairman and minority chairman of the Finance Committee of the
11 House of Representatives. The report must include the names of
12 the qualified taxpayers utilizing the tax credit as of the date

13 of the report and the amount of tax credits approved for,
14 utilized by or sold or assigned by a qualified taxpayer.

15 (b) Reconciliation report.--On May 1, 2028, the Department
16 of Community and Economic Development shall submit to the
17 Secretary of the Senate and the Chief Clerk of the House of
18 Representatives a reconciliation report on the effectiveness of
19 this article. This report shall include, at a minimum, the
20 following information for the preceding ten years:

21 (1) The name and business address of all qualified
22 taxpayers who have been granted tax credits under this

23 article.
24 (2) The amount of tax credits granted to each qualified
25 taxpayer.

26 (3) The total number of jobs created by the qualified
27 taxpayer, upstream company and downstream company and any
28 companies that provide goods, utilities or other services
29 that support the business operations of the qualified
30 taxpayer and upstream company and downstream company. This

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1 paragraph includes the average annual salary and hourly wage
2 information.

3 (4) The amount of taxes paid under Article II by the
4 qualified taxpayer, upstream company and downstream company
5 and any companies that provide goods, utilities or other
6 services that support the business operations of the
7 qualified taxpayer and upstream company and downstream
8 company.

9 (5) The amount of taxes withheld from employees or paid
10 by members, partners or shareholders of the pass-through
11 entities under Article III of the qualified taxpayer,
12 upstream company and downstream company, and any companies

13 that provide goods, utilities or other services that support
14 the business operations of the qualified taxpayer and
15 upstream company and downstream company.

16 (6) The amount of taxes paid under Article IV by the
17 qualified taxpayer, upstream company and downstream company
18 and any companies that provide goods, utilities or other
19 services that support the business operations of the
20 qualified taxpayer and upstream company and downstream
21 company.

22 (7) The amount of taxes paid under Article VI by the
23 qualified taxpayer, upstream company and downstream company
24 and any companies that provide goods, utilities or other
25 services that support the business operations of the
26 qualified taxpayer and upstream company and downstream
27 company.

28 (8) The amount of taxes paid under Article XI by the
29 qualified taxpayer, upstream company and downstream company
30 and any companies that provide goods, utilities or other

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1 services that support the business operations of the
2 qualified taxpayer and upstream company and downstream
3 company.

4 (9) The amount of any other State or local taxes paid by
5 the qualified taxpayer, upstream company and downstream
6 company and any companies that provide goods, utilities or
7 other services that support the business operations of the
8 qualified taxpayer and upstream company and downstream
9 company.

10 (10) Any other information pertaining to the economic
11 impact of this article in this Commonwealth.

12 (c) Reduction.--If the reconciliation report issued under

13 subsection (b) reveals that the total amount of the tax credits
14 granted under this article exceeds the total amount of tax
15 revenue reported under subsection (b)(4) through (9), the report
16 must include any recommendation for changes in the calculation
17 of the credit.

18 (d) Publication.--The reports required by this section shall
19 be public records and shall be available electronically on the
20 Internet website of either the department or the Department of
21 Community and Economic Development. The reports required by this
22 section shall not contain "confidential proprietary information"
23 as defined in section 102 of the act of February 14, 2008
24 (P.L.6, No.3), known as the Right-to-Know Law.

25 Section 1711-G. Expiration.

26 This article shall expire December 31, 2044.

27 ARTICLE XVII-G.1

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28 EDUCATIONAL OPPORTUNITY

29 SCHOLARSHIP TAX CREDIT

30 SECTION 1701-G.1. SCOPE OF ARTICLE.

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1 THIS ARTICLE ESTABLISHES THE EDUCATIONAL OPPORTUNITY
2 SCHOLARSHIP TAX CREDIT.

3 SECTION 1702-G.1. DEFINITIONS.

4 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
5 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
6 CONTEXT CLEARLY INDICATES OTHERWISE:

7 "APPLICANT." AN ELIGIBLE STUDENT WHO APPLIES FOR A
8 SCHOLARSHIP.

9 "ASSESSMENT." THE PENNSYLVANIA SYSTEM OF SCHOOL ASSESSMENT
10 TEST, THE KEYSTONE EXAM, AN EQUIVALENT LOCAL ASSESSMENT OR
11 ANOTHER TEST ESTABLISHED BY THE STATE BOARD OF EDUCATION TO MEET
12 THE REQUIREMENTS OF SECTION 2603-B(D)(10)(I) OF THE PUBLIC

12 THE REQUIREMENTS OF SECTION 2503 B(1)(a) OF THE PUBLIC
13 SCHOOL CODE OF 1949 AND REQUIRED UNDER THE NO CHILD LEFT BEHIND
14 ACT OF 2001 (PUBLIC LAW 107-110, 115 STAT. 1425) OR ITS
15 SUCCESSOR STATUTE OR ANY OTHER TEST REQUIRED TO ACHIEVE OTHER
16 STANDARDS ESTABLISHED BY THE DEPARTMENT OF EDUCATION FOR THE
17 PUBLIC SCHOOL OR SCHOOL DISTRICT UNDER 22 PA. CODE § 403.3
18 (RELATING TO SINGLE ACCOUNTABILITY SYSTEM).

19 "ATTENDANCE BOUNDARY." A GEOGRAPHIC AREA OF RESIDENCE USED
20 BY A SCHOOL DISTRICT TO ASSIGN A STUDENT TO A PUBLIC SCHOOL.

21 "AVERAGE DAILY MEMBERSHIP." AS DEFINED IN SECTION 2501(3) OF
22 THE PUBLIC SCHOOL CODE OF 1949.

23 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
24 COMMONWEALTH AND SUBJECT TO A TAX UNDER ARTICLE XVI OF THE ACT
25 OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE INSURANCE
26 COMPANY LAW OF 1921, OR TAXES IMPOSED UNDER ARTICLE III, IV, VI,
27 VII, VIII, IX OR XV. THE TERM INCLUDES A PASS-THROUGH ENTITY.

28 "CONTRIBUTION." A DONATION OF CASH, PERSONAL PROPERTY OR
29 SERVICES, THE VALUE OF WHICH IS THE NET COST OF THE DONATION TO
30 THE DONOR OR THE PRO RATA HOURLY WAGE, INCLUDING BENEFITS, OF
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1 THE INDIVIDUAL PERFORMING THE SERVICES.

2 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
3 DEVELOPMENT OF THE COMMONWEALTH.

4 "ELEMENTARY SCHOOL." A SCHOOL WHICH IS NOT A SECONDARY
5 SCHOOL.

6 "ELIGIBLE STUDENT." A STUDENT OR A STUDENT WITH A DISABILITY
7 WHO:

8 (1) RESIDES WITHIN THE ATTENDANCE BOUNDARY OF A LOW-
9 ACHIEVING SCHOOL AS OF THE FIRST DAY OF CLASSES OF THE SCHOOL
10 YEAR; AND

11 (2) IS A MEMBER OF A HOUSEHOLD WHICH HAS A HOUSEHOLD

12 INCOME NO GREATER THAN THE MAXIMUM ANNUAL HOUSEHOLD INCOME
13 ALLOWANCE.
14 "HOUSEHOLD." AN INDIVIDUAL WHO LIVES ALONE OR WITH THE
15 FOLLOWING: A SPOUSE, PARENT AND THEIR UNEMANCIPATED MINOR
16 CHILDREN, OTHER UNEMANCIPATED MINOR CHILDREN WHO ARE RELATED BY
17 BLOOD OR MARRIAGE OR OTHER ADULTS OR UNEMANCIPATED MINOR
18 CHILDREN LIVING IN THE HOUSEHOLD WHO ARE DEPENDENT UPON THE
19 INDIVIDUAL.

20 "HOUSEHOLD INCOME." ALL MONEYS OR PROPERTY RECEIVED BY A
21 HOUSEHOLD OF WHATEVER NATURE AND FROM WHATEVER SOURCE DERIVED.
22 THE TERM DOES NOT INCLUDE THE FOLLOWING:

23 (1) PERIODIC PAYMENTS FOR SICKNESS AND DISABILITY OTHER
24 THAN REGULAR WAGES RECEIVED DURING A PERIOD OF SICKNESS OR
25 DISABILITY.

26 (2) DISABILITY, RETIREMENT OR OTHER PAYMENTS ARISING
27 UNDER WORKERS' COMPENSATION ACTS, OCCUPATIONAL DISEASE ACTS
28 AND SIMILAR LEGISLATION BY ANY GOVERNMENT.

29 (3) PAYMENTS COMMONLY RECOGNIZED AS OLD-AGE OR
30 RETIREMENT BENEFITS PAID TO PERSONS RETIRED FROM SERVICE

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1 AFTER REACHING A SPECIFIC AGE OR AFTER A STATED PERIOD OF
2 EMPLOYMENT.

3 (4) PAYMENTS COMMONLY KNOWN AS PUBLIC ASSISTANCE OR
4 UNEMPLOYMENT COMPENSATION PAYMENTS BY A GOVERNMENTAL AGENCY.

5 (5) PAYMENTS TO REIMBURSE ACTUAL EXPENSES.

6 (6) PAYMENTS MADE BY EMPLOYERS OR LABOR UNIONS FOR
7 PROGRAMS COVERING HOSPITALIZATION, SICKNESS, DISABILITY OR
8 DEATH, SUPPLEMENTAL UNEMPLOYMENT BENEFITS, STRIKE BENEFITS,
9 SOCIAL SECURITY AND RETIREMENT.

10 (7) COMPENSATION RECEIVED BY UNITED STATES SERVICEMEN
11 SERVING IN A COMBAT ZONE.

12 "INCOME ALLOWANCE."

13 (1) THE FOLLOWING SHALL APPLY:

14 (I) AFTER JUNE 30, 2012, AND THROUGH JUNE 30, 2013,
15 \$12,000 FOR EACH DEPENDENT MEMBER OF THE HOUSEHOLD.

16 (II) AFTER JUNE 30, 2013, AND THROUGH JUNE 30, 2014,
17 \$15,000 FOR EACH DEPENDENT MEMBER OF THE HOUSEHOLD.

18 (2) BEGINNING JULY 1, 2014, THE DEPARTMENT OF COMMUNITY
19 AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE INCOME
20 ALLOWANCE AMOUNTS UNDER PARAGRAPH (1) TO REFLECT ANY UPWARD
21 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
22 FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA
23 IN THE PRECEDING 12 MONTHS AND SHALL IMMEDIATELY SUBMIT THE
24 ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE BUREAU FOR
25 PUBLICATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

26 "KINDERGARTEN." A ONE-YEAR FORMAL EDUCATIONAL PROGRAM THAT
27 OCCURS DURING THE SCHOOL YEAR IMMEDIATELY PRIOR TO FIRST GRADE.
28 THE TERM INCLUDES A PART-TIME AND A FULL-TIME PROGRAM.

29 "LOW-ACHIEVING SCHOOL." A PUBLIC SCHOOL THAT RANKED IN THE
30 LOWEST 15% OF ITS DESIGNATION AS AN ELEMENTARY SCHOOL OR A

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1 SECONDARY SCHOOL BASED ON COMBINED MATHEMATICS AND READING
2 SCORES FROM THE ANNUAL ASSESSMENT ADMINISTERED IN THE PREVIOUS
3 SCHOOL YEAR AND FOR WHICH THE DEPARTMENT OF EDUCATION HAS POSTED
4 RESULTS ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE. THE TERM
5 DOES NOT INCLUDE A CHARTER SCHOOL, CYBER CHARTER SCHOOL OR AREA
6 VOCATIONAL-TECHNICAL SCHOOL.

7 "MAXIMUM ANNUAL HOUSEHOLD INCOME ALLOWANCE."

8 (1) EXCEPT AS STATED IN PARAGRAPH (2) AND SUBJECT TO
9 ADJUSTMENT UNDER PARAGRAPH (3), THE SUM OF:

10 (I) EITHER:

11 (A) AFTER JUNE 30, 2012, AND THROUGH JUNE 30,

12 2013, NOT MORE THAN \$60,000; OR
 13 (B) AFTER JUNE 30, 2013, NOT MORE THAN \$75,000.
 14 (II) THE APPLICABLE INCOME ALLOWANCE.
 15 (2) WITH RESPECT TO A STUDENT WITH A DISABILITY, AS
 16 CALCULATED BY MULTIPLYING:
 17 (I) THE APPLICABLE AMOUNT UNDER PARAGRAPH (1); BY
 18 (II) THE APPLICABLE SUPPORT LEVEL FACTOR ACCORDING
 19 TO THE FOLLOWING TABLE:
 20 SUPPORT LEVEL SUPPORT LEVEL FACTOR
 21 1 1.50
 22 2 2.993
 23 (3) BEGINNING JULY 1, 2014, THE DEPARTMENT OF COMMUNITY
 24 AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE INCOME
 25 AMOUNTS UNDER PARAGRAPHS (1) AND (2) TO REFLECT ANY UPWARD
 26 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
 27 FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA
 28 IN THE PRECEDING 12 MONTHS AND SHALL IMMEDIATELY SUBMIT THE
 29 ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE BUREAU FOR
 30 PUBLICATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

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1 "NONPUBLIC SCHOOL." A SCHOOL WHICH IS A NONPROFIT
 2 ORGANIZATION AND WHICH IS LOCATED IN THE COMMONWEALTH. THE TERM
 3 DOES NOT INCLUDE A PUBLIC SCHOOL.
 4 "PARENT." AN INDIVIDUAL WHO:
 5 (1) IS A RESIDENT OF THE COMMONWEALTH; AND
 6 (2) EITHER:
 7 (I) HAS LEGAL CUSTODY OR GUARDIANSHIP OF A STUDENT;
 8 OR
 9 (II) KEEPS IN HIS HOME A STUDENT AND SUPPORTS THE
 10 STUDENT GRATIS AS IF THE STUDENT WERE A LINEAL DESCENDANT
 11 OF THE INDIVIDUAL.

12 "PARTICIPATING NONPUBLIC SCHOOL." A NONPUBLIC SCHOOL WHICH
 13 NOTIFIES THE DEPARTMENT OF EDUCATION UNDER SECTION 1710-G.1 THAT
 14 IT WISHES TO PARTICIPATE IN THE PROGRAM.

15 "PARTICIPATING PUBLIC SCHOOL." A PUBLIC SCHOOL IN A SCHOOL
 16 DISTRICT WHICH NOTIFIES THE DEPARTMENT OF EDUCATION UNDER
 17 SECTION 1710-G.1(B) THAT IT WISHES TO PARTICIPATE IN THE
 18 PROGRAM. THE TERM SHALL NOT INCLUDE A LOW-ACHIEVING SCHOOL.

19 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
 20 301(N.0), A SINGLE-MEMBER LIMITED LIABILITY COMPANY TREATED AS A
 21 DISREGARDED ENTITY FOR FEDERAL INCOME TAX PURPOSES OR A
 22 PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION 301(N.1).

23 "PUBLIC SCHOOL CODE OF 1949." THE ACT OF MARCH 10, 1949
 24 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949.

25 "PROGRAM." THE EDUCATIONAL OPPORTUNITY SCHOLARSHIP TAX
 26 CREDIT PROGRAM ESTABLISHED UNDER THIS ARTICLE.

27 "RECIPIENT." AN APPLICANT WHO RECEIVES A SCHOLARSHIP.

28 "SCHOLARSHIP." AN AWARD GIVEN TO AN APPLICANT FOR THE
 29 RECIPIENT TO PAY TUITION AND SCHOOL-RELATED FEES NECESSARY TO
 30 ATTEND A PARTICIPATING NONPUBLIC SCHOOL OR A PARTICIPATING

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1 PUBLIC SCHOOL LOCATED IN A SCHOOL DISTRICT WHICH IS NOT THE
 2 RECIPIENT'S SCHOOL DISTRICT OF RESIDENCE.

3 "SCHOLARSHIP ORGANIZATION." A NONPROFIT ENTITY WHICH:

4 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)
 5 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,
 6 26 U.S.C. § 1 ET SEQ.); AND

7 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL CASH RECEIPTS
 8 TO A SCHOLARSHIP PROGRAM.

9 FOR PURPOSES OF THIS DEFINITION, A NONPROFIT ENTITY

10 "CONTRIBUTES" ITS ANNUAL CASH RECEIPTS TO A SCHOLARSHIP PROGRAM

11 WHEN IT EXPENDS OR OTHERWISE IRREVOCABLY ENCUMBERS THOSE FUNDS

12 FOR REGISTRATION DURING THE FIVE CURRENT FISCAL YEARS OF THE

12 FOR DISTRIBUTION DURING THE THEN CURRENT FISCAL YEAR OF THE
13 NONPROFIT ENTITY OR DURING THE NEXT SUCCEEDING FISCAL YEAR OF
14 THE NONPROFIT ENTITY.

15 "SCHOOL." AN ELEMENTARY SCHOOL OR A SECONDARY SCHOOL AT
16 WHICH THE COMPULSORY ATTENDANCE REQUIREMENTS OF THE COMMONWEALTH
17 MAY BE MET AND WHICH MEETS THE APPLICABLE REQUIREMENTS OF TITLE
18 VI OF THE CIVIL RIGHTS ACT OF 1964 (PUBLIC LAW 88-352, 78 STAT.
19 241).

20 "SCHOOL AGE." THE AGE OF AN INDIVIDUAL FROM THE EARLIEST
21 ADMISSION AGE TO A SCHOOL'S KINDERGARTEN OR, WHEN NO
22 KINDERGARTEN IS PROVIDED, THE SCHOOL'S EARLIEST ADMISSION AGE
23 FOR BEGINNERS, UNTIL THE END OF THE SCHOOL YEAR THE INDIVIDUAL
24 ATTAINS 21 YEARS OF AGE OR GRADUATION FROM HIGH SCHOOL,
25 WHICHEVER OCCURS FIRST.

26 "SCHOOL DISTRICT OF RESIDENCE." THE SCHOOL DISTRICT IN WHICH
27 THE STUDENT'S PRIMARY DOMICILE IS LOCATED.

28 "SCHOOL-RELATED FEES." FEES CHARGED BY A SCHOOL TO ALL
29 STUDENTS FOR BOOKS, INSTRUCTIONAL MATERIALS, TECHNOLOGY
30 EQUIPMENT AND SERVICES, UNIFORMS AND ACTIVITIES.

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1 "SECONDARY SCHOOL." A SCHOOL WITH AN ELEVENTH GRADE.

2 "SPECIAL EDUCATION SCHOOL." A SCHOOL OR PROGRAM WITHIN A
3 SCHOOL THAT IS DESIGNATED SPECIFICALLY AND EXCLUSIVELY FOR
4 STUDENTS WITH ANY OF THE DISABILITIES LISTED IN 34 CFR § 300.8
5 (RELATING TO CHILD WITH A DISABILITY) AND MEETS ONE OF THE
6 FOLLOWING:

7 (1) IS LICENSED UNDER THE ACT OF JANUARY 28, 1988
8 (P.L.24, NO.11), KNOWN AS THE PRIVATE ACADEMIC SCHOOLS ACT;

9 (2) IS ACCREDITED BY AN ACCREDITING ASSOCIATION APPROVED
10 BY THE STATE BOARD OF EDUCATION;

11 (3) IS A SCHOOL FOR THE BLIND OR DEAF RECEIVING

COMMONWEALTH APPROPRIATIONS; OR

(4) IS OPERATED BY OR UNDER THE AUTHORITY OF A BONA FIDE
RELIGIOUS INSTITUTION OR BY THE COMMONWEALTH OR ANY POLITICAL
SUBDIVISION THEREOF.

"STUDENT." AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING:

(1) IS SCHOOL AGE.

(2) IS A RESIDENT OF THIS COMMONWEALTH.

(3) ATTENDS OR IS ABOUT TO ATTEND A SCHOOL.

"STUDENT WITH A DISABILITY." A STUDENT WHO MEETS ALL OF THE
FOLLOWING:

(1) IS EITHER ENROLLED IN A SPECIAL EDUCATION SCHOOL OR
HAS OTHERWISE BEEN IDENTIFIED, IN ACCORDANCE WITH 22 PA. CODE
CH. 14 (RELATING TO SPECIAL EDUCATION SERVICES AND PROGRAMS),
AS A "CHILD WITH A DISABILITY," AS DEFINED IN 34 CFR § 300.8
(RELATING TO CHILD WITH A DISABILITY).

(2) NEEDS SPECIAL EDUCATION AND RELATED SERVICES.

"SUPPORT LEVEL." THE LEVEL OF SUPPORT NEEDED BY AN ELIGIBLE
STUDENT WITH A DISABILITY, AS PROVIDED IN THE FOLLOWING MATRIX:

SUPPORT LEVEL 1 - THE STUDENT IS NOT ENROLLED IN A

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SPECIAL EDUCATION SCHOOL.

SUPPORT LEVEL 2 - THE STUDENT IS ENROLLED AS A STUDENT IN
A SPECIAL EDUCATION SCHOOL.

SECTION 1703-G.1. QUALIFICATION AND APPLICATION.

(A) ESTABLISHMENT.--THE EDUCATIONAL OPPORTUNITY SCHOLARSHIP
TAX CREDIT PROGRAM IS ESTABLISHED. THE PROGRAM SHALL PROVIDE TAX
CREDITS TO ENTITIES THAT PROVIDE CONTRIBUTIONS TO SCHOLARSHIP
ORGANIZATIONS. THE SCHOLARSHIP ORGANIZATIONS MUST ENHANCE THE
EDUCATIONAL OPPORTUNITIES AVAILABLE TO STUDENTS IN THIS
COMMONWEALTH BY PROVIDING SCHOLARSHIPS TO ELIGIBLE STUDENTS WHO
RESIDE WITHIN THE ATTENDANCE BOUNDARY OF LOW-ACHIEVING SCHOOLS

12 TO ATTEND SCHOOLS WHICH ARE NOT LOW-ACHIEVING SCHOOLS AND WHICH
13 ARE NOT A PUBLIC SCHOOL WITHIN THE SCHOOL DISTRICT OF RESIDENCE.

14 (B) INFORMATION.--IN ORDER TO QUALIFY UNDER THIS ARTICLE, A
15 SCHOLARSHIP ORGANIZATION MUST SUBMIT INFORMATION TO THE
16 DEPARTMENT THAT ENABLES THE DEPARTMENT TO CONFIRM THAT THE
17 SCHOLARSHIP ORGANIZATION IS EXEMPT FROM TAXATION UNDER SECTION
18 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW
19 99-514, 26 U.S.C. § 1 ET SEQ.).

20 (C) ANNUAL CERTIFICATION OF ELIGIBILITY.--BY AUGUST 15,
21 2012, AND BY FEBRUARY 15, 2013, AND EACH FEBRUARY 15 THEREAFTER,
22 A SCHOLARSHIP ORGANIZATION MUST CERTIFY TO THE DEPARTMENT THAT
23 THE ORGANIZATION IS ELIGIBLE TO PARTICIPATE IN THE PROGRAM.

24 (D) REPORT.--

25 (1) A SCHOLARSHIP ORGANIZATION MUST AGREE TO REPORT THE
26 FOLLOWING INFORMATION ON A FORM PROVIDED BY THE DEPARTMENT BY
27 SEPTEMBER 1, 2013, AND EACH SEPTEMBER 1 THEREAFTER:

28 (I) THE TOTAL NUMBER OF APPLICATIONS FOR
29 SCHOLARSHIPS RECEIVED DURING THE IMMEDIATELY PRECEDING
30 SCHOOL YEAR FROM ELIGIBLE STUDENTS IN GRADES KINDERGARTEN

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1 THROUGH EIGHT.

2 (II) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
3 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN
4 GRADES KINDERGARTEN THROUGH EIGHT.

5 (III) THE TOTAL AND AVERAGE AMOUNTS OF THE
6 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
7 SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES KINDERGARTEN
8 THROUGH EIGHT.

9 (IV) THE TOTAL NUMBER OF APPLICATIONS FOR
10 SCHOLARSHIPS RECEIVED DURING THE IMMEDIATELY PRECEDING

11 SCHOOL YEAR FROM ELIGIBLE STUDENTS IN GRADES 9 THROUGH
12 12.

13 (V) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
14 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN
15 GRADES 9 THROUGH 12.

16 (VI) THE TOTAL AND AVERAGE AMOUNTS OF THE
17 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
18 SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES 9 THROUGH 12.

19 (VII) WHERE THE SCHOLARSHIP ORGANIZATION COLLECTS
20 INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE TOTAL NUMBER
21 AND THE TOTAL AMOUNT OF SCHOLARSHIPS AWARDED DURING THE
22 IMMEDIATELY PRECEDING SCHOOL YEAR TO RESIDENTS OF EACH
23 COUNTY IN WHICH THE SCHOLARSHIP ORGANIZATION AWARDED
24 SCHOLARSHIPS.

25 (VIII) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
26 IMMEDIATELY PRECEDING SCHOOL YEAR TO APPLICANTS WITH A
27 HOUSEHOLD INCOME THAT DOES NOT EXCEED 185% OF THE FEDERAL
28 POVERTY LEVEL.

29 (IX) THE TOTAL AND AVERAGE AMOUNTS OF THE
30 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING

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1 SCHOOL YEAR TO APPLICANTS WITH A HOUSEHOLD INCOME THAT
2 DOES NOT EXCEED 185% OF THE FEDERAL POVERTY LEVEL.

3 (X) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
4 IMMEDIATELY PRECEDING SCHOOL YEAR TO APPLICANTS WITH A
5 HOUSEHOLD INCOME THAT DOES NOT EXCEED 185% OF THE FEDERAL
6 POVERTY LEVEL AND WHO RESIDE WITHIN A FIRST CLASS SCHOOL
7 DISTRICT.

8 (XI) THE TOTAL AND AVERAGE AMOUNTS OF THE
9 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
10 SCHOOL YEAR TO APPLICANTS WITH A HOUSEHOLD INCOME THAT

11 DOES NOT EXCEED 185% OF THE FEDERAL POVERTY LEVEL AND WHO
12 RESIDE WITHIN A FIRST CLASS SCHOOL DISTRICT.

13 (XII) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
14 IMMEDIATELY PRECEDING SCHOOL YEAR TO APPLICANTS WITH A
15 HOUSEHOLD INCOME THAT DOES NOT EXCEED 185% OF THE FEDERAL
16 POVERTY LEVEL AND WHO RESIDE WITHIN A SCHOOL DISTRICT
17 WITH AN AVERAGE DAILY MEMBERSHIP GREATER THAN 7,500 AND
18 THAT RECEIVES AN ADVANCE OF ITS BASIC EDUCATION SUBSIDY
19 AT ANY TIME.

20 (XIII) THE TOTAL AND AVERAGE AMOUNTS OF THE
21 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
22 SCHOOL YEAR TO APPLICANTS WITH A HOUSEHOLD INCOME THAT
23 DOES NOT EXCEED 185% OF THE FEDERAL POVERTY LEVEL AND WHO
24 RESIDE WITHIN A SCHOOL DISTRICT WITH AN AVERAGE DAILY
25 MEMBERSHIP GREATER THAN 7,500 AND THAT RECEIVES AN
26 ADVANCE OF ITS BASIC EDUCATION SUBSIDY AT ANY TIME.

27 (XIV) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
28 IMMEDIATELY PRECEDING SCHOOL YEAR TO APPLICANTS WITH A
29 HOUSEHOLD INCOME THAT DOES NOT EXCEED 185% OF THE FEDERAL
30 POVERTY LEVEL AND WHO RESIDE WITHIN A SCHOOL DISTRICT

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1 THAT RECEIVES AN ADVANCE OF ITS BASIC EDUCATION SUBSIDY
2 AT ANY TIME AND IS EITHER SUBJECT TO A DECLARATION OF
3 FINANCIAL DISTRESS UNDER SECTION 691 OF THE PUBLIC SCHOOL
4 CODE OF 1949 OR ENGAGED IN LITIGATION AGAINST THE
5 COMMONWEALTH IN WHICH THE SCHOOL DISTRICT SEEKS FINANCIAL
6 ASSISTANCE FROM THE COMMONWEALTH TO ALLOW THE SCHOOL
7 DISTRICT TO CONTINUE TO OPERATE.

8 (XV) THE TOTAL AND AVERAGE AMOUNTS OF THE
9 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
10 SCHOOL YEAR TO APPLICANTS WITH A HOUSEHOLD INCOME THAT

DOES NOT EXCEED 185% OF THE FEDERAL POVERTY LEVEL AND WHO RESIDE WITHIN A SCHOOL DISTRICT THAT RECEIVES AN ADVANCE OF ITS BASIC EDUCATION SUBSIDY AT ANY TIME AND IS EITHER SUBJECT TO A DECLARATION OF FINANCIAL DISTRESS UNDER SECTION 691 OF THE PUBLIC SCHOOL CODE OF 1949 OR IS ENGAGED IN LITIGATION AGAINST THE COMMONWEALTH IN WHICH THE SCHOOL DISTRICT SEEKS FINANCIAL ASSISTANCE FROM THE COMMONWEALTH TO ALLOW THE SCHOOL DISTRICT TO CONTINUE TO OPERATE.

(XVI) THE TOTAL NUMBER OF SCHOLARSHIP APPLICATIONS PROCESSED AND THE AMOUNTS OF ANY APPLICATION FEES CHARGED EITHER PER SCHOLARSHIP APPLICATION OR IN THE AGGREGATE THROUGH A THIRD-PARTY PROCESSOR.

(XVII) THE SCHOLARSHIP ORGANIZATION'S FEDERAL FORM 990 OR OTHER FEDERAL FORM INDICATING THE TAX STATUS OF THE SCHOLARSHIP ORGANIZATION FOR FEDERAL TAX PURPOSES, IF ANY, AND A COPY OF A COMPILATION, REVIEW OR AUDIT OF THE SCHOLARSHIP ORGANIZATION'S FINANCIAL STATEMENTS CONDUCTED BY A CERTIFIED PUBLIC ACCOUNTING FIRM.

(2) NO LATER THAN MAY 1, 2013, AND EACH MAY 1

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THEREAFTER, THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH SAMPLE FORMS, TOGETHER WITH THE FORMS ON WHICH THE REPORTS ARE REQUIRED TO BE MADE, TO EACH LISTED SCHOLARSHIP ORGANIZATION.

(3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION TO BE PROVIDED BY SCHOLARSHIP ORGANIZATIONS, EXCEPT AS EXPRESSLY AUTHORIZED IN THIS ARTICLE.

(E) NOTIFICATION.--THE DEPARTMENT SHALL NOTIFY A SCHOLARSHIP ORGANIZATION THAT IT MEETS THE REQUIREMENTS OF THIS ARTICLE FOR THAT FISCAL YEAR NO LATER THAN 60 DAYS AFTER THE SCHOLARSHIP

11 ORGANIZATION SUBMITS THE INFORMATION REQUIRED UNDER THIS
12 SECTION.

13 (F) PUBLICATION.--THE DEPARTMENT SHALL ANNUALLY PUBLISH A
14 LIST OF EACH SCHOLARSHIP ORGANIZATION QUALIFIED UNDER THIS
15 SECTION IN THE PENNSYLVANIA BULLETIN AND SHALL POST AND UPDATE
16 THE LIST AS NECESSARY ON THE PUBLICLY ACCESSIBLE INTERNET
17 WEBSITE OF THE DEPARTMENT.

18 SECTION 1704-G.1. TAX CREDIT APPLICATION.

19 (A) SCHOLARSHIP ORGANIZATION.--A BUSINESS FIRM SHALL APPLY
20 TO THE DEPARTMENT FOR A TAX CREDIT UNDER SECTION 1705-G.1. A
21 BUSINESS FIRM SHALL RECEIVE A TAX CREDIT UNDER THIS ARTICLE IF
22 THE SCHOLARSHIP ORGANIZATION THAT RECEIVES THE CONTRIBUTION
23 APPEARS ON THE LIST PUBLISHED UNDER SECTION 1703-G.1(F).

24 (B) AVAILABILITY OF TAX CREDITS.--TAX CREDITS UNDER THIS
25 ARTICLE SHALL BE MADE AVAILABLE BY THE DEPARTMENT ON A FIRST-
26 COME-FIRST-SERVED BASIS WITHIN THE LIMITATION ESTABLISHED UNDER
27 SECTION 1706-G.1(A).

28 (C) CONTRIBUTIONS.--A CONTRIBUTION BY A BUSINESS FIRM TO A
29 SCHOLARSHIP ORGANIZATION SHALL BE MADE NO LATER THAN 60 DAYS
30 FOLLOWING THE APPROVAL OF AN APPLICATION UNDER SUBSECTION (A).

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1 SECTION 1705-G.1. TAX CREDIT.

2 (A) SCHOLARSHIP ORGANIZATIONS.--

3 (1) IN ACCORDANCE WITH SECTION 1706-G.1(A), THE
4 DEPARTMENT OF REVENUE SHALL GRANT A TAX CREDIT AGAINST ANY
5 TAX DUE UNDER ARTICLE XVI OF THE ACT OF MAY 17, 1921
6 (P.L.682, NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF
7 1921, OR UNDER ARTICLE III, IV, VI, VII, VIII, IX OR XV TO A
8 BUSINESS FIRM PROVIDING PROOF OF A CONTRIBUTION TO A
9 SCHOLARSHIP ORGANIZATION IN THE TAXABLE YEAR IN WHICH THE
10 CONTRIBUTION IS MADE WHICH SHALL NOT EXCEED 75% OF THE TOTAL

11 AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY THE BUSINESS
 12 FIRM.

13 (2) FOR THE FISCAL YEAR 2012-2013, THE TAX CREDIT SHALL
 14 NOT EXCEED \$400,000 ANNUALLY PER BUSINESS FIRM FOR
 15 CONTRIBUTIONS MADE TO SCHOLARSHIP ORGANIZATIONS.

16 (3) FOR THE FISCAL YEARS 2013-2014 AND EACH FISCAL YEAR
 17 THEREAFTER, THE TAX CREDIT SHALL NOT EXCEED \$750,000 ANNUALLY
 18 PER BUSINESS FIRM FOR CONTRIBUTIONS MADE TO SCHOLARSHIP
 19 ORGANIZATIONS.

20 (B) ADDITIONAL AMOUNT.--

21 (1) THE DEPARTMENT OF REVENUE SHALL GRANT A TAX CREDIT
 22 OF UP TO 90% OF THE TOTAL AMOUNT CONTRIBUTED DURING THE
 23 TAXABLE YEAR IF THE BUSINESS FIRM PROVIDES A WRITTEN
 24 COMMITMENT TO PROVIDE THE SCHOLARSHIP ORGANIZATION WITH THE
 25 SAME AMOUNT OF CONTRIBUTION FOR TWO CONSECUTIVE TAX YEARS.

26 (2) THE BUSINESS FIRM MUST PROVIDE THE WRITTEN
 27 COMMITMENT UNDER THIS SUBSECTION TO THE DEPARTMENT AT THE
 28 TIME OF APPLICATION.

29 (C) COMBINATION OF TAX CREDITS.--

30 (1) A BUSINESS FIRM MAY RECEIVE TAX CREDITS FROM THE
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1 DEPARTMENT OF REVENUE IN ANY TAX YEAR FOR ANY COMBINATION OF
 2 CONTRIBUTIONS UNDER SUBSECTION (A) OR (B).

3 ~~(2) IN NO CASE MAY A BUSINESS FIRM RECEIVE TAX CREDITS~~
 4 ~~IN ANY TAX YEAR:~~

5 (I) IN EXCESS OF \$400,000 FOR CONTRIBUTIONS UNDER
 6 SUBSECTIONS (A) AND (B) MADE DURING FISCAL YEAR
 7 2012-2013; OR

8 (II) IN EXCESS OF \$750,000 FOR CONTRIBUTIONS UNDER
 9 SUBSECTIONS (A) AND (B) MADE DURING FISCAL YEAR 2013-2014

10 OR ANY FISCAL YEAR THEREAFTER

ON ANY FISCAL YEAR THEREAFTER.

(D) PASS-THROUGH ENTITY.--

(1) IF A PASS-THROUGH ENTITY DOES NOT INTEND TO USE ALL APPROVED TAX CREDITS UNDER THIS SECTION, IT MAY ELECT IN WRITING TO TRANSFER ALL OR A PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER, MEMBER OR PARTNER IS ENTITLED FOR USE IN THE TAXABLE YEAR IN WHICH THE CONTRIBUTION IS MADE OR IN THE TAXABLE YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH THE CONTRIBUTION IS MADE. THE ELECTION SHALL DESIGNATE THE YEAR IN WHICH THE TRANSFERRED CREDITS ARE TO BE USED AND SHALL BE MADE ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF REVENUE.

(2) A PASS-THROUGH ENTITY AND A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH ENTITY SHALL NOT CLAIM THE CREDIT UNDER THIS SECTION FOR THE SAME CONTRIBUTION.

(3) THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN THE CREDIT.

(E) RESTRICTION ON APPLICABILITY OF CREDITS.--NO CREDITS

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GRANTED UNDER THIS SECTION SHALL BE APPLIED AGAINST ANY TAX WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

(F) TIME OF APPLICATION FOR CREDITS.--

(1) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE DEPARTMENT MAY ACCEPT APPLICATIONS FOR TAX CREDITS AVAILABLE DURING A FISCAL YEAR NO EARLIER THAN JULY 1 OF EACH FISCAL YEAR.

(2) THE APPLICATION OF ANY BUSINESS FIRM FOR TAX CREDITS AVAILABLE DURING A FISCAL YEAR AS PART OF THE SECOND YEAR OF A TWO-YEAR COMMITMENT OR AS A RENEWAL OF A TWO-YEAR

10 COMMITMENT THAT WAS FULFILLED IN THE PREVIOUS FISCAL YEAR MAY
11 BE ACCEPTED NO EARLIER THAN MAY 15 PRECEDING THE FISCAL YEAR.

12 SECTION 1706-G.1. TAX CREDIT LIMITATIONS.

13 (A) AMOUNT.--THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
14 APPROVED SHALL NOT EXCEED \$50,000,000 IN A FISCAL YEAR.

15 (B) ACTIVITIES.--NO TAX CREDIT SHALL BE APPROVED FOR
16 ACTIVITIES THAT ARE A PART OF A BUSINESS FIRM'S NORMAL COURSE OF
17 BUSINESS.

18 (C) TAX LIABILITY.--

19 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A TAX CREDIT
20 GRANTED FOR ANY ONE TAXABLE YEAR MAY NOT EXCEED THE TAX
21 LIABILITY OF A BUSINESS FIRM.

22 (2) IN THE CASE OF A CREDIT GRANTED TO A PASS-THROUGH
23 ENTITY WHICH ELECTS TO TRANSFER THE CREDIT ACCORDING TO

24 SECTION 1705-G.1(D), A TAX CREDIT GRANTED FOR ANY ONE TAXABLE
25 YEAR AND TRANSFERRED TO A SHAREHOLDER, MEMBER OR PARTNER MAY
26 NOT EXCEED THE TAX LIABILITY OF THE SHAREHOLDER, MEMBER OR
27 PARTNER.

28 (D) USE.--A TAX CREDIT NOT USED BY THE APPLICANT IN THE
29 TAXABLE YEAR THE CONTRIBUTION WAS MADE OR IN THE YEAR DESIGNATED
30 BY THE SHAREHOLDER, MEMBER OR PARTNER TO WHOM THE CREDIT WAS

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1 TRANSFERRED UNDER SECTION 1705-G.1(D) MAY NOT BE CARRIED FORWARD
2 OR CARRIED BACK AND IS NOT REFUNDABLE OR TRANSFERABLE.

3 (E) NONTAXABLE INCOME.--A SCHOLARSHIP RECEIVED BY AN
4 ELIGIBLE STUDENT SHALL NOT BE CONSIDERED TO BE TAXABLE INCOME
5 FOR THE PURPOSES OF ARTICLE III.

6 SECTION 1707-G.1. TAX CREDIT LISTS.

7 THE DEPARTMENT OF REVENUE SHALL PROVIDE A LIST OF ALL
8 SCHOLARSHIP ORGANIZATIONS RECEIVING CONTRIBUTIONS FROM BUSINESS
9 FIRMS GRANTED A TAX CREDIT UNDER THIS ARTICLE TO THE GENERAL

10 ASSEMBLY BY JUNE 30 OF EACH YEAR.

11 SECTION 1708-G.1. SCHOLARSHIPS.

12 (A) NOTICE.--BY AUGUST 15, 2012, AND BY FEBRUARY 1 OF EACH
13 YEAR THEREAFTER, THE DEPARTMENT SHALL PROVIDE ALL SCHOLARSHIP
14 ORGANIZATIONS WITH A LIST OF THE LOW-ACHIEVING SCHOOLS LOCATED
15 WITHIN EACH SCHOOL DISTRICT.

16 (B) AWARD.--A SCHOLARSHIP ORGANIZATION MAY AWARD A
17 SCHOLARSHIP TO AN APPLICANT WHO RESIDES WITHIN THE ATTENDANCE
18 BOUNDARY OF A LOW-ACHIEVING SCHOOL TO ATTEND A PARTICIPATING
19 PUBLIC SCHOOL OR A PARTICIPATING NONPUBLIC SCHOOL SELECTED BY
20 THE PARENT OF THE APPLICANT. IN AWARDING SCHOLARSHIPS, A
21 SCHOLARSHIP ORGANIZATION SHALL GIVE PREFERENCE TO ANY OF THE
22 FOLLOWING:

23 (1) AN APPLICANT WHO RECEIVED A SCHOLARSHIP FOR THE
24 PRIOR SCHOOL YEAR.

25 (2) AN APPLICANT OF A HOUSEHOLD WITH A HOUSEHOLD INCOME
26 THAT DOES NOT EXCEED 185% OF THE FEDERAL POVERTY LEVEL FOR
27 THE SCHOOL YEAR PRECEDING THE SCHOOL YEAR FOR WHICH THE
28 APPLICATION IS BEING MADE.

29 (3) AN APPLICANT OF A HOUSEHOLD WITH A HOUSEHOLD INCOME
30 THAT DOES NOT EXCEED 185% OF THE FEDERAL POVERTY LEVEL FOR

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1 THE SCHOOL YEAR PRECEDING THE SCHOOL YEAR FOR WHICH THE
2 APPLICATION IS BEING MADE AND WHO RESIDES WITHIN ANY OF THE
3 FOLLOWING:

4 (I) A FIRST CLASS SCHOOL DISTRICT;

5 (II) A SCHOOL DISTRICT WITH AN AVERAGE DAILY
6 MEMBERSHIP GREATER THAN 7,500 AND THAT RECEIVES AN
7 ADVANCE OF ITS BASIC EDUCATION SUBSIDY AT ANY TIME; OR

8 (III) A SCHOOL DISTRICT THAT RECEIVES AN ADVANCE OF
9 ITS BASIC EDUCATION SUBSIDY AT ANY TIME AND IS EITHER

SUBJECT TO A DECLARATION OF FINANCIAL DISTRESS UNDER
SECTION 691 OF THE PUBLIC SCHOOL CODE OF 1949 OR ENGAGED
IN LITIGATION AGAINST THE COMMONWEALTH IN WHICH THE
SCHOOL DISTRICT SEEKS FINANCIAL ASSISTANCE FROM THE
COMMONWEALTH TO ALLOW THE SCHOOL DISTRICT TO CONTINUE TO
OPERATE.

(C) HOME SCHOOLING.--A SCHOLARSHIP ORGANIZATION SHALL NOT
AWARD A SCHOLARSHIP TO AN APPLICANT FOR ENROLLMENT IN A HOME
EDUCATION PROGRAM UNDER SECTION 1327.1 OF THE PUBLIC SCHOOL CODE
OF 1949.

(D) FUNDING.--THE AGGREGATE AMOUNT OF SCHOLARSHIPS SHALL NOT
EXCEED THE AGGREGATE AMOUNT OF CONTRIBUTIONS MADE BY BUSINESS
FIRMS TO THE SCHOLARSHIP ORGANIZATION.

(E) AMOUNT.--

(1) THE MAXIMUM AMOUNT OF A SCHOLARSHIP AWARDED TO
AN APPLICANT WITHOUT A DISABILITY SHALL BE \$8,500.

(2) THE MAXIMUM AMOUNT OF A SCHOLARSHIP AWARDED TO
AN APPLICANT WITH A DISABILITY SHALL BE \$15,000.

(3) IN NO CASE SHALL THE COMBINED AMOUNT OF THE
SCHOLARSHIP AWARDED TO A RECIPIENT AND ANY ADDITIONAL
FINANCIAL ASSISTANCE PROVIDED TO THE RECIPIENT EXCEED THE

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TUITION RATE AND SCHOOL-RELATED FEES FOR THE
PARTICIPATING PUBLIC SCHOOL OR PARTICIPATING NONPUBLIC
SCHOOL THAT THE RECIPIENT WILL ATTEND.

(F) TAXATION.--A SCHOLARSHIP SHALL NOT BE CONSIDERED TAXABLE
INCOME FOR PURPOSES OF ARTICLE III, OR A LOCAL TAXING ORDINANCE.

(G) FINANCIAL ASSISTANCE.--A SCHOLARSHIP SHALL NOT
CONSTITUTE FINANCIAL ASSISTANCE OR AN APPROPRIATION TO THE
PARTICIPATING PUBLIC SCHOOL OR THE PARTICIPATING NONPUBLIC
SCHOOL ATTENDED BY A RECIPIENT.

10 SECTION 1709-G.1. LOW-ACHIEVING SCHOOLS.
11 (A) LIST OF LOW-ACHIEVING SCHOOLS.--BY SEPTEMBER 1, 2012,

12 AND BY FEBRUARY 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT OF
13 EDUCATION SHALL PUBLISH ON ITS PUBLICLY ACCESSIBLE INTERNET
14 WEBSITE AND IN THE PENNSYLVANIA BULLETIN A LIST OF THE LOW-
15 ACHIEVING SCHOOLS FOR THE FOLLOWING SCHOOL YEAR.

16 (B) NOTICE.--BY AUGUST 1, 2012, AND BY FEBRUARY 1 OF EACH
17 YEAR THEREAFTER, THE DEPARTMENT OF EDUCATION SHALL NOTIFY EVERY
18 SCHOOL DISTRICT IDENTIFIED AS HAVING AT LEAST ONE LOW-ACHIEVING
19 SCHOOL OF ITS DESIGNATION AND SHALL FURNISH THE SCHOOL DISTRICT
20 WITH A LIST OF THE LOW-ACHIEVING SCHOOLS LOCATED WITHIN THE
21 SCHOOL DISTRICT.

22 (C) PUBLICATION.--WITHIN 15 DAYS OF RECEIPT OF A
23 NOTIFICATION UNDER SUBSECTION (B), A SCHOOL DISTRICT SHALL POST
24 ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE NOTICE OF ALL OF THE
25 FOLLOWING:

26 (1) A DESCRIPTION OF THE PROGRAM.

27 (2) INSTRUCTIONS FOR APPLYING FOR A SCHOLARSHIP.

28 (3) A LIST OF SCHOOLS IN THE SCHOOL DISTRICT THAT HAVE
29 BEEN DESIGNATED BY THE DEPARTMENT OF EDUCATION AS LOW-
30 ACHIEVING SCHOOLS.

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1 (4) NOTICE THAT A PARENT MUST CONTACT DIRECTLY A SCHOOL
2 DISTRICT OF A PARTICIPATING PUBLIC SCHOOL OR A PARTICIPATING
3 NONPUBLIC SCHOOL IF THE PARENT SEEKS TO ENROLL THE STUDENT IN
4 THE PROGRAM.

5 (D) NOTIFICATION TO PARENTS.--

6 (1) WITHIN 15 DAYS OF RECEIPT OF A NOTIFICATION UNDER
7 SUBSECTION (B), A SCHOOL DISTRICT SHALL NOTIFY THE PARENTS OF
8 EACH STUDENT WHO IS CURRENTLY ATTENDING OR RESIDING WITHIN

9 THE ATTENDANCE BOUNDARY OF A LOW-ACHIEVING SCHOOL DURING THE
10 SCHOOL YEAR OF THE SCHOOL'S DESIGNATION.

11 (2) UPON REGISTRATION OF A KINDERGARTEN STUDENT, A
12 SCHOOL DISTRICT SHALL NOTIFY THE PARENTS OF THE KINDERGARTEN
13 STUDENT THAT THE STUDENT WILL BE ASSIGNED TO A LOW-ACHIEVING
14 SCHOOL DURING THE SCHOOL YEAR OF THE SCHOOL'S DESIGNATION.

15 (3) THE NOTICE SHALL BE IN A FORM PROVIDED BY THE
16 DEPARTMENT OF EDUCATION AND SHALL PROVIDE THE FOLLOWING
17 INFORMATION REGARDING THE PROGRAM:

18 (I) A DESCRIPTION OF THE PROGRAM.

19 (II) INSTRUCTIONS FOR OBTAINING INFORMATION ABOUT
20 APPLYING FOR A SCHOLARSHIP UNDER THE PROGRAM.

21 (III) NOTICE OF THE PARENT'S RESPONSIBILITIES WITH
22 REGARD TO APPLYING TO A SCHOOL DISTRICT OF A
23 PARTICIPATING PUBLIC SCHOOL OR A PARTICIPATING NONPUBLIC
24 SCHOOL IF THE PARENT SEEKS TO ENROLL THE STUDENT IN THE
25 PROGRAM.

26 (E) AVERAGE DAILY MEMBERSHIP.--

27 (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE
28 CONTRARY, A RECIPIENT WHO WAS ENROLLED IN THE RECIPIENT'S
29 RESIDENT SCHOOL DISTRICT OR IN A CHARTER SCHOOL, REGIONAL
30 CHARTER SCHOOL OR CYBER CHARTER SCHOOL WHEN THE RECIPIENT

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1 FIRST RECEIVED A SCHOLARSHIP SHALL CONTINUE TO BE COUNTED IN
2 THE AVERAGE DAILY MEMBERSHIP OF THE SCHOOL DISTRICT FOR A
3 PERIOD OF ONE YEAR AFTER ENROLLING IN A PARTICIPATING PUBLIC
4 SCHOOL OR A PARTICIPATING NONPUBLIC SCHOOL.

5 (2) DURING THE YEAR REFERENCED IN PARAGRAPH (1) AND EACH
6 SCHOOL YEAR THEREAFTER, A SCHOOL DISTRICT OF A PARTICIPATING
7 PUBLIC SCHOOL IN WHICH THE RECIPIENT IS ENROLLED SHALL NOT
8 INCLUDE THE RECIPIENT IN THE SCHOOL DISTRICT'S AVERAGE DAILY

9 MEMBERSHIP.

10 SECTION 1710-G.1. SCHOOL PARTICIPATION IN PROGRAM.

11 (A) ELECTION.--

12 (1) BY AUGUST 15, 2012, AND BY FEBRUARY 15 OF EACH YEAR
13 THEREAFTER, A NONPUBLIC SCHOOL MAY ELECT TO PARTICIPATE IN
14 THE PROGRAM FOR THE FOLLOWING SCHOOL YEAR.

15 (2) BY AUGUST 15, 2012, AND BY FEBRUARY 15 OF EACH YEAR
16 THEREAFTER, A SCHOOL DISTRICT MAY ELECT TO PARTICIPATE IN THE
17 PROGRAM FOR THE FOLLOWING SCHOOL YEAR.

18 (B) NOTICE.--

19 (1) A SCHOOL DISTRICT OR NONPUBLIC SCHOOL THAT ELECTS TO
20 PARTICIPATE UNDER SUBSECTION (A) MUST NOTIFY THE DEPARTMENT
21 OF EDUCATION OF ITS INTENT TO PARTICIPATE.

22 (2) FOR A SCHOOL DISTRICT, THE NOTICE UNDER PARAGRAPH
23 (1) MUST BE SUBMITTED ON A FORM DEVELOPED BY THE DEPARTMENT
24 OF EDUCATION AND SHALL SPECIFY ALL OF THE FOLLOWING:

25 (I) EACH SCHOOL WITHIN THE SCHOOL DISTRICT WHICH THE
26 SCHOOL DISTRICT INTENDS TO MAKE A PARTICIPATING PUBLIC

27 SCHOOL.

28 (II) THE AMOUNT OF TUITION AND SCHOOL-RELATED FEES
29 ATTRIBUTABLE TO EACH AVAILABLE SEAT. THE AMOUNT UNDER
30 THIS SUBPARAGRAPH SHALL NOT EXCEED THE AMOUNT CALCULATED

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1 UNDER SECTION 2561 OF THE PUBLIC SCHOOL CODE OF 1949.

2 (3) FOR A NONPUBLIC SCHOOL, THE NOTICE UNDER PARAGRAPH
3 (1) MUST BE SUBMITTED ON A FORM DEVELOPED BY THE DEPARTMENT
4 OF EDUCATION AND SHALL SPECIFY THE AMOUNT OF TUITION AND
5 SCHOOL-RELATED FEES ATTRIBUTABLE TO AN AVAILABLE SEAT.

6 (C) TUITION RATES.--

7 (1) NO SCHOOL DISTRICT OF A PARTICIPATING PUBLIC SCHOOL
8 OR PARTICIPATING NONPUBLIC SCHOOL MAY CHARGE A RECIPIENT A

9 HIGHER TUITION RATE OR SCHOOL-RELATED FEE THAN THE
10 PARTICIPATING PUBLIC SCHOOL OR PARTICIPATING NONPUBLIC SCHOOL
11 WOULD HAVE CHARGED TO A SIMILARLY SITUATED STUDENT WHO IS NOT
12 RECEIVING A SCHOLARSHIP.

13 (2) NOTWITHSTANDING THE PROVISIONS OF SECTION 2561 OF
14 THE PUBLIC SCHOOL CODE OF 1949, A SCHOOL DISTRICT OF A
15 PARTICIPATING PUBLIC SCHOOL MAY CHARGE A RECIPIENT A TUITION
16 RATE THAT IS LOWER THAN THAT CHARGED TO STUDENTS WHO ARE NOT
17 RECIPIENTS OF SCHOLARSHIPS.

18 (D) PARTICIPATING PUBLIC SCHOOL CRITERIA.--THE FOLLOWING
19 CRITERIA APPLY TO A PARTICIPATING PUBLIC SCHOOL:

20 (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A
21 SCHOOL DISTRICT SHALL ENROLL STUDENTS IN A PARTICIPATING
22 PUBLIC SCHOOL ON A LOTTERY BASIS FROM A POOL OF RECIPIENTS
23 WHO MEET THE APPLICATION DEADLINE SET BY THE DEPARTMENT OF
24 EDUCATION UNTIL THE PARTICIPATING PUBLIC SCHOOL FILLS ITS
25 AVAILABLE SEATS. THE POOL MAY NOT INCLUDE A RECIPIENT WHO:

26 (I) HAS BEEN EXPELLED OR IS IN THE PROCESS OF BEING
27 EXPELLED UNDER SECTION 1317.2 OR 1318 OF THE PUBLIC
28 SCHOOL CODE OF 1949 AND APPLICABLE REGULATIONS OF THE
29 STATE BOARD OF EDUCATION; OR

30 (II) HAS BEEN RECRUITED BY THE SCHOOL DISTRICT OR

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1 ITS REPRESENTATIVES FOR ATHLETIC PURPOSES.

2 (2) THE ENROLLMENT OF RECIPIENTS MAY NOT PLACE THE
3 SCHOOL DISTRICT IN VIOLATION OF A VALID AND BINDING
4 DESEGREGATION ORDER.

5 (3) PRIORITY SHALL BE GIVEN TO:

6 (I) AN EXISTING RECIPIENT.

7 (II) A RECIPIENT WHO IS A SIBLING OF A STUDENT
8 CURRENTLY ENROLLED IN THE SCHOOL DISTRICT.

9 (E) PARTICIPATING NONPUBLIC SCHOOL CRITERIA.--THE FOLLOWING
10 CRITERIA APPLY TO A PARTICIPATING NONPUBLIC SCHOOL:

11 (1) THE PARTICIPATING NONPUBLIC SCHOOL MAY NOT
12 DISCRIMINATE ON A BASIS WHICH IS ILLEGAL UNDER FEDERAL OR
13 STATE LAWS APPLICABLE TO NONPUBLIC SCHOOLS.

14 (2) THE PARTICIPATING NONPUBLIC SCHOOL SHALL COMPLY WITH
15 SECTION 1521 OF THE PUBLIC SCHOOL CODE OF 1949.

16 (3) THE PARTICIPATING NONPUBLIC SCHOOL OR ITS
17 REPRESENTATIVES MAY NOT RECRUIT A STUDENT FOR ATHLETIC
18 PURPOSES.

19 (F) STUDENT RULES, POLICIES AND PROCEDURES.--

20 (1) PRIOR TO ENROLLMENT OF A RECIPIENT, A SCHOOL
21 DISTRICT OF A PARTICIPATING PUBLIC SCHOOL OR A PARTICIPATING
22 NONPUBLIC SCHOOL SHALL INFORM THE PARENT OF A RECIPIENT OF
23 ANY AND ALL RULES, POLICIES AND PROCEDURES OF THE
24 PARTICIPATING PUBLIC SCHOOL OR PARTICIPATING NONPUBLIC
25 SCHOOL, INCLUDING ANY ACADEMIC POLICIES, DISCIPLINARY RULES
26 AND ADMINISTRATIVE PROCEDURES OF THE PARTICIPATING PUBLIC
27 SCHOOL OR PARTICIPATING NONPUBLIC SCHOOL.

28 (2) ENROLLMENT OF A RECIPIENT IN A PARTICIPATING PUBLIC
29 SCHOOL OR PARTICIPATING NONPUBLIC SCHOOL SHALL CONSTITUTE
30 ACCEPTANCE OF ANY RULES, POLICIES AND PROCEDURES OF THE

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1 PARTICIPATING PUBLIC SCHOOL OR PARTICIPATING NONPUBLIC
2 SCHOOL.

3 (G) TRANSPORTATION.--

4 (1) TRANSPORTATION OF RECIPIENTS SHALL BE PROVIDED UNDER
5 SECTION 1361 OF THE PUBLIC SCHOOL CODE OF 1949.

6 (2) REIMBURSEMENT SHALL BE AS FOLLOWS:

7 (I) TRANSPORTATION OF A RECIPIENT ATTENDING A
8 PARTICIPATING PUBLIC SCHOOL SHALL BE SUBJECT TO

9 REIMBURSEMENT UNDER SECTION 2541 OF THE PUBLIC SCHOOL
10 CODE OF 1949.

11 (II) TRANSPORTATION OF A RECIPIENT ATTENDING A
12 PARTICIPATING NONPUBLIC SCHOOL SHALL BE SUBJECT TO
13 REIMBURSEMENT UNDER SECTIONS 2509.3 AND 2541 OF THE
14 PUBLIC SCHOOL CODE OF 1949.

15 (H) CONSTRUCTION.--NOTHING IN THIS ARTICLE SHALL BE

16 CONSTRUED TO:

17 (1) PROHIBIT A PARTICIPATING NONPUBLIC SCHOOL FROM
18 LIMITING ADMISSION TO A PARTICULAR GRADE LEVEL, A SINGLE
19 GENDER OR AREAS OF CONCENTRATION OF THE PARTICIPATING
20 NONPUBLIC SCHOOL, INCLUDING MATHEMATICS, SCIENCE AND THE
21 ARTS.

22 (2) AUTHORIZE THE COMMONWEALTH OR ANY OF ITS AGENCIES OR
23 OFFICERS OR POLITICAL SUBDIVISIONS TO IMPOSE ANY ADDITIONAL
24 REQUIREMENTS ON A PARTICIPATING NONPUBLIC SCHOOL WHICH ARE
25 NOT OTHERWISE AUTHORIZED UNDER THE LAWS OF THIS COMMONWEALTH
26 OR TO REQUIRE A PARTICIPATING NONPUBLIC SCHOOL TO ENROLL A
27 RECIPIENT IF THE PARTICIPATING NONPUBLIC SCHOOL DOES NOT
28 OFFER APPROPRIATE PROGRAMS OR IS NOT STRUCTURED OR EQUIPPED
29 WITH THE NECESSARY FACILITIES TO MEET THE SPECIAL NEEDS OF
30 THE RECIPIENT OR DOES NOT OFFER A PARTICULAR PROGRAM

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1 REQUESTED.

2 SECTION 1711-G.1. TUITION GRANTS BY SCHOOL DISTRICTS.

3 (A) GENERAL RULE.--THE BOARD OF SCHOOL DIRECTORS OF A SCHOOL
4 DISTRICT MAY USE FUNDS RECEIVED FROM THE COMMONWEALTH FOR
5 EDUCATIONAL PURPOSES TO ESTABLISH A PROGRAM OF TUITION GRANTS TO
6 PROVIDE FOR THE EDUCATION OF STUDENTS WHO RESIDE WITHIN THE
7 DISTRICT AND ATTEND OR WILL ATTEND A PUBLIC OR NONPUBLIC SCHOOL

8 ON A TUITION-PAYING BASIS.

9 (B) NONPUBLIC SCHOOL GRANT AMOUNT.--FOR STUDENTS WHO ATTEND
10 OR WILL ATTEND A NONPUBLIC SCHOOL, THE GRANT AMOUNT FOR EACH
11 STUDENT SHALL NOT EXCEED THE AMOUNT OF THE PER PUPIL STATE
12 SUBSIDY FOR BASIC EDUCATION OF THE SCHOOL DISTRICT OF RESIDENCE.

13 (C) AVERAGE DAILY MEMBERSHIP.--

14 (1) A STUDENT WHO RECEIVES A TUITION GRANT UNDER THIS
15 SECTION SHALL BE INCLUDED IN THE AVERAGE DAILY MEMBERSHIP FOR
16 PURPOSES OF DETERMINING THE SCHOOL DISTRICT OF RESIDENCE'S
17 BASIC EDUCATION FUNDING.

18 (2) A STUDENT WHO RECEIVES A GRANT UNDER THIS SECTION TO
19 ATTEND A PUBLIC SCHOOL OUTSIDE THE SCHOOL DISTRICT AWARDING
20 THE TUITION GRANT SHALL NOT BE INCLUDED IN THE AVERAGE DAILY
21 MEMBERSHIP OF THE SCHOOL DISTRICT THE STUDENT ATTENDS.

22 (D) GUIDELINES.--

23 (1) THE BOARD OF SCHOOL DIRECTORS OF A SCHOOL DISTRICT
24 SHALL PREPARE GUIDELINES ESTABLISHING AN APPLICATION FORM AND
25 APPROVAL PROCESS, STANDARDS FOR VERIFICATION AS TO THE
26 ACCURACY OF APPLICATION INFORMATION, CONFIRMATION OF
27 ATTENDANCE BY A STUDENT WHO RECEIVES A TUITION GRANT,
28 RESTRICTIVE ENDORSEMENT OF GRANT CHECKS BY PARENTS TO THE
29 SCHOOL CHOSEN BY THE PARENTS, PRO RATA REFUNDS OF GRANTS FOR
30 STUDENTS WHO WITHDRAW DURING THE SCHOOL YEAR, REPAYMENT OF

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1 REFUNDED GRANTS TO THE SCHOOL DISTRICT AND REASONABLE
2 DEADLINE DATES FOR SUBMISSION OF GRANT APPLICATIONS.

3 (2) THE BOARD OF SCHOOL DIRECTORS OF A SCHOOL SHALL
4 ANNOUNCE THE AWARD OF GRANTS NO LATER THAN AUGUST 1 OF THE
5 SCHOOL YEAR IN WHICH THE GRANTS WILL BE UTILIZED.

6 (3) UPON RECEIPT OF WRITTEN CONFIRMATION OF ENROLLMENT
7 FROM THE STUDENT'S SCHOOL OF CHOICE, GRANTS SHALL BE PAID TO

8 THE PARENTS OF A STUDENT BY A CHECK THAT MAY ONLY BE ENDORSED
9 TO THE SELECTED SCHOOL.

10 (4) IN THE EVENT A STUDENT IS NO LONGER ENROLLED PRIOR
11 TO THE COMPLETION OF THE SCHOOL TERM, THE SCHOOL SHALL SEND
12 WRITTEN NOTICE THEREOF TO THE SCHOOL DISTRICT.

13 (E) NONTAXABLE.--GRANTS AWARDED TO STUDENTS UNDER THIS
14 SECTION SHALL NOT BE CONSIDERED TAXABLE INCOME FOR PURPOSES OF
15 ANY LOCAL TAXING ORDINANCE OR FOR PURPOSES OF ARTICLE III, NOR
16 SHALL SUCH GRANTS CONSTITUTE FINANCIAL ASSISTANCE OR
17 APPROPRIATIONS TO THE SCHOOL ATTENDED BY THE STUDENT.

18 (F) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
19 CONSTRUED TO EMPOWER THE COMMONWEALTH OR ANY SCHOOL DISTRICT OR
20 ANY OF THEIR AGENCIES OR OFFICERS TO:

21 (1) PRESCRIBE THE COURSE CONTENT OR ADMISSIONS CRITERIA
22 FOR ANY RELIGIOUSLY AFFILIATED SCHOOL;

23 (2) COMPEL ANY PRIVATE SCHOOL TO ACCEPT OR ENROLL A
24 STUDENT;

25 (3) IMPOSE ANY ADDITIONAL REQUIREMENTS ON ANY PRIVATE
26 SCHOOL THAT ARE NOT OTHERWISE AUTHORIZED; OR

27 (4) REQUIRE ANY SCHOOL TO ACCEPT OR RETAIN A STUDENT IF
28 THE SCHOOL DOES NOT OFFER PROGRAMS OR IS NOT STRUCTURED OR
29 EQUIPPED WITH THE NECESSARY FACILITIES TO MEET THE SPECIAL
30 NEEDS OF THE STUDENT OR DOES NOT OFFER A PARTICULAR PROGRAM

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1 REQUESTED.

2 SECTION 1712-G.1. ORIGINAL JURISDICTION.

3 THE PENNSYLVANIA SUPREME COURT SHALL HAVE EXCLUSIVE AND
4 ORIGINAL JURISDICTION TO HEAR ANY CHALLENGE OR TO RENDER A
5 DECLARATORY JUDGMENT CONCERNING THE CONSTITUTIONALITY OF THIS
6 ARTICLE. THE PENNSYLVANIA SUPREME COURT MAY TAKE SUCH ACTION AS
7 IT DEEMS APPROPRIATE, CONSISTENT WITH THE PENNSYLVANIA SUPREME

8 COURT'S RETAINING JURISDICTION OVER SUCH A MATTER, TO FIND FACTS
9 OR TO EXPEDITE A FINAL JUDGMENT IN CONNECTION WITH SUCH A
10 CHALLENGE OR REQUEST FOR DECLARATORY RELIEF.

11 ARTICLE XVII-H

12 HISTORIC PRESERVATION INCENTIVE TAX CREDIT

13 Section 1701-H. Scope of article.

14 This article relates to the historic preservation incentive
15 tax credit.

16 Section 1702-H. Definitions.

17 The following words and phrases when used in this article
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Commission." The Pennsylvania Historical and Museum
21 Commission.

22 "Completed project." The completion of the restoration of a
23 qualified historic structure in accordance with a qualified
24 rehabilitation plan and the receipt of an occupancy certificate
25 for the structure.

26 "Department." The Department of Revenue of the Commonwealth.
27 "Internal Revenue Code." The Internal Revenue Code of 1986
28 (Public Law 99-514, 26 U.S.C. 1 et seq.).

29 "Qualified expenditures." The costs and expenses incurred by
30 a qualified taxpayer in the restoration of a qualified historic

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1 structure pursuant to a qualified rehabilitation plan and which
2 are defined as qualified rehabilitation expenditures under
3 section 47(c)(2) of the Internal Revenue Code of 1986 (Public
4 Law 99-514, 26 U.S.C. § 47(c)(2)).

5 "Qualified historic structure." A commercial building
6 located in this Commonwealth that qualifies as a certified
7 historic structure under section 47(c)(3) of the Internal

8 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(3)).

9 "Qualified rehabilitation plan." A plan to rehabilitate a
10 qualified historic structure that is approved by the
11 Pennsylvania Historical and Museum Commission as being
12 consistent with the standards for rehabilitation and guidelines
13 for rehabilitation of historic buildings as adopted by the
14 United States Secretary of the Interior.

15 "Qualified tax liability." Tax liability imposed on a
16 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV,
17 excluding any tax withheld by an employer under Article III.

18 "Qualified taxpayer." Any natural person, corporation,
19 business trust, limited liability company, partnership, limited
20 liability partnership, association or any other form of legal
21 business entity that:

22 (1) Is subject to a tax imposed under Article III, IV,
23 VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an
24 employer under Article III.

25 (2) Owns a qualified historic structure.

26 "Region." A Community Action Team region as established by
27 the Department of Community and Economic Development.

28 Section 1703-H. Tax credit certificates.

29 (a) Application.--

30 (1) A qualified taxpayer may apply to the Department of

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1 Community and Economic Development for a tax credit
2 certificate under this section.

3 (2) The application shall be on the form required by the
4 Department of Community and Economic Development and shall
5 include a qualified rehabilitation plan.

6 (3) The application shall be filed on or before February
7 1 for qualified expenditures incurred and to be incurred in

8 connection with the completed project.

9 (b) Review, recommendation and approval.--

10 (1) The Department of Community and Economic Development
11 shall forward applications received under this section to the
12 commission for review.

13 (2) The commission shall review the proposed
14 rehabilitation plan, verify that the building is a qualified
15 historic structure and recommend approval or disapproval to
16 the Department of Community and Economic Development within
17 30 days of receipt of the application. The commission shall
18 notify the qualified taxpayer within 15 days of its
19 determination.

20 (3) The commission shall notify the Department of
21 Community and Economic Development of verification of a
22 completed project and notify the Department of Community and
23 Economic Development of the amount of qualified expenditures
24 incurred by the taxpayer in connection with the completed
25 project.

26 (4) If the Department of Community and Economic
27 Development has approved the application and received
28 notification of a completed project, it shall issue the
29 qualified taxpayer a tax credit certificate by April 1. A tax
30 credit certificate issued under this section shall not exceed

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1 25% of qualified expenditures determined by the commission to
2 have been incurred by the qualified taxpayer in connection
3 with the completed project.

4 (5) In granting tax credit certificates under this
5 article, the Department of Community and Economic
6 Development:

7 (i) Shall not grant more than \$3,000,000 in tax

8 credit certificates in any fiscal year.

9 (ii) Shall not grant more than \$500,000 in tax
10 credit certificates to a single qualified taxpayer in any
11 fiscal year.

12 (iii) Shall assure that credits are awarded in an
13 equitable manner to each region in this Commonwealth.
14 However, credits allocated to a region that are unclaimed
15 shall be promptly reallocated to eligible projects in
16 other regions.

17 (6) Tax credits under this article shall be made

18 available on a first-come, first-served basis within the
19 limitation established under subsection (b) (5).

20 Section 1704-H. Claiming the credit.

21 Upon presenting a tax credit certificate to the department,
22 the qualified taxpayer may claim a tax credit against the
23 qualified tax liability of the qualified taxpayer.

24 Section 1705-H. Carryover, carryback and assignment of credit.

25 (a) General rule.--If a qualified taxpayer cannot use the
26 entire amount of the tax credit for the taxable year in which
27 the tax credit is first approved, then the excess may be carried
28 over to succeeding taxable years and used as a credit against
29 the qualified tax liability of the qualified taxpayer for those
30 taxable years. Each time the tax credit is carried over to a

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1 succeeding taxable year, it shall be reduced by the amount that
2 was used as a credit during the immediately preceding taxable
3 year. The tax credit provided by this article may be carried
4 over and applied to succeeding taxable years for not more than
5 seven taxable years following the first taxable year for which
6 the qualified taxpayer was entitled to claim the credit.

1 (b) Application.--A tax credit certificate received by the
2 department in a taxable year first shall be applied against the
3 qualified taxpayer's qualified tax liability for the current
4 taxable year as of the date on which the credit was issued
5 before the tax credit can be applied against any qualified tax
6 liability under subsection (a).

7 (c) No carryback or refund.--A qualified taxpayer may not
8 carry back or obtain a refund of all or any portion of an unused
9 tax credit granted to the qualified taxpayer under this article.

10 (d) Sale or assignment.--The following shall apply:

11 (1) A qualified taxpayer, upon application to and
12 approval by the Department of Community and Economic
13 Development, may sell or assign, in whole or in part, a tax
14 credit granted to the qualified taxpayer under this article.

15 (2) Before an application is approved, the department
16 must find that the applicant has filed all required State tax
17 reports and returns for all applicable taxable years and paid
18 any balance of State tax due as determined at settlement,
19 assessment or determination by the department.

20 (e) Purchasers and assignees.--The purchaser or assignee of
21 all or a portion of a tax credit obtained under section 1703-H
22 shall immediately claim the credit in the taxable year in which
23 the purchase or assignment is made. The purchaser or assignee
24 may not carry forward, carry back or obtain a refund of or sell

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25 or assign the tax credit. The purchaser or assignee shall notify
26 the department of the seller or assignor of the tax credit in
27 compliance with procedures specified by the department.
28 Section 1706-H. Pass-through entity.

29 (a) General rule.--If a pass-through entity has any unused
30 tax credit under section 1705-H, it may elect in writing,

7 according to procedures established by the department, to
8 transfer all or a portion of the credit to shareholders, members
9 or partners in proportion to the share of the entity's
10 distributive income to which the shareholder, member or partner
11 is entitled.

12 (b) Limitation.--A pass-through entity and a shareholder,
13 member or partner of a pass-through entity shall not claim the
14 credit under subsection (a) for the same qualified expenditures.

15 (c) Application.--A shareholder, member or partner of a
16 pass-through entity to whom a credit is transferred under
17 subsection (a) shall immediately claim the credit in the taxable
18 year in which the transfer is made. The shareholder, member or
19 partner may not carry forward, carry back, obtain a refund of or
20 sell or assign the credit.

21 Section 1707-H. Administration.

22 The Department of Community and Economic Development, the
23 commission and the department shall jointly develop written
24 guidelines for the implementation of the provisions of this
25 article.

26 Section 1708-H. Application of Internal Revenue Code.

27 The provisions of section 47 of the Internal Revenue Code and
28 the regulations promulgated regarding those provisions shall
29 apply to the department's interpretation and administration of
30 the credit provided under this article. References to the

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1 Internal Revenue Code shall mean the sections of the Internal
2 Revenue Code as existing on any date of interpretation of this
3 article, except if those sections of the Internal Revenue Code
4 referenced in this article are repealed or terminated,
5 references to the Internal Revenue Code shall mean those
6 sections last having full force and effect. If after repeal or

6 sections last having full force and effect. If after repeal or
7 termination the Internal Revenue Code sections are revised or
8 reenacted, references in this article to Internal Revenue Code
9 sections shall mean those revised or reenacted sections.

10 Section 1709-H. Limitation.

11 Taxpayers shall not be entitled to apply for historic
12 preservation tax credits after the seventh fiscal year following
13 the effective date of this article.

14 ARTICLE XVII-I

15 COMMUNITY-BASED SERVICES TAX CREDIT

16 Section 1701-I. Scope of article.

17 This article relates to community-based services tax credits.

18 Section 1702-I. Definitions.

19 The following words and phrases when used in this article
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Business firm." An entity authorized to do business in this
23 Commonwealth and subject to taxes imposed under Article III, IV,
24 VI, VII, VIII, IX or XV.

25 "Contribution." A donation of cash, personal property or
26 services, the value of which is the net cost of the donation to
27 the donor or the pro rata hourly wage, including benefits, of
28 the individual performing the service.

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

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1 "Individual." An individual who is eligible for community-
2 based services funded through the Office of Developmental
3 Programs and the Office of Mental Health and Substance Abuse
4 Services of the Department of Public Welfare.

5 "Provider." A nonprofit entity that meets all of the

6 following:

7 (1) Provides community-based services to individuals
8 with intellectual disabilities or mental illness.

9 (2) Is exempt from Federal taxation under section 501(c)
10 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
11 26 U.S.C. § 1 et seq.).

12 Section 1703-I. Community-based services tax credit program.

13 (a) Establishment.--A community-based services tax credit
14 program is established to supplement, not supplant, existing
15 Federal and State funding for community-based services for
16 individuals in this Commonwealth.

17 (b) Information.--In order to qualify under this article, a
18 provider must submit information to the department that enables
19 the department to confirm that the provider is exempt from
20 taxation under section 501(c)(3) of the Internal Revenue Code of
21 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

22 (c) Provider application.--

23 (1) An application submitted to the department by the
24 provider must describe the community-based services it
25 provides to individuals on a form provided by the department.

26 (2) The department shall consult with the Department of
27 Public Welfare as necessary to determine that the provider
28 provides community-based services for individuals. The
29 department shall review and approve or disapprove the
30 application.

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1 (d) Notification.--The department shall notify the provider
2 that the provider meets the requirements under this article for
3 that fiscal year no later than 60 days after the provider has
4 submitted the application required under this section.

5 (e) Publication.--The department shall annually publish a

6 list of each provider qualified under this section in the
7 Pennsylvania Bulletin. The list shall also be posted and updated
8 as necessary on the publicly accessible Internet website of the
9 department.

10 Section 1703.1-I. Restriction on use of contributions.

11 The contributions received by a provider from a business firm
12 claiming a tax credit under this article must be used for direct
13 care or services relating to direct care of individuals.

14 Section 1704-I. Availability of tax credits.

15 (a) Application.--A business firm may apply to the
16 department for a tax credit under section 1705-I. A business
17 firm may receive a tax credit under this article if the provider
18 that receives the contribution from the business firm appears on
19 the list under section 1703-I(e).

20 (b) Availability of tax credits.--Tax credits under this
21 section shall be made available by the department on a first-
22 come-first-served basis within the limitation established under
23 section 1706-I(a).

24 (c) Contributions.--A contribution by a business firm to a
25 provider shall be made no later than 60 days following the
26 approval of an application under subsection (a).

27 Section 1705-I. Grant of tax credits.

28 (a) General rule.--In accordance with section 1706-I(a), the
29 department shall grant a tax credit certificate. The certificate
30 may be used against a tax liability owed to the department by a

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1 business firm that provides proof of a contribution to a
2 provider in the taxable year in which the contribution is made.
3 The business firm may apply the credit against any tax due under
4 Article III, IV, VI, VII, VIII, IX or XV, excluding any tax

5 withheld by an employer under Article III.

6 (b) Limitation.--The tax credit shall not exceed 50% of the
7 total amount contributed by a business firm to a provider during
8 the taxable year of the business firm. The tax credit shall not
9 exceed \$100,000 annually per business firm.

10 (c) Additional amount.--

11 (1) A business firm that contributes to a provider in
12 two or more consecutive years shall qualify for a 75% tax
13 credit for the contributions made in the second year and
14 every consecutive year of making a contribution to a
15 provider.

16 (2) Nothing in this section shall be construed to
17 require a business firm to contribute to the same provider
18 every year in order for the business firm to qualify for a
19 tax credit under this subsection.

20 Section 1706-I. Amount of tax credits.

21 (a) General rule.--The total aggregate amount of all tax
22 credits approved shall not exceed \$3,000,000 in a fiscal year.

23 (b) Activities.--No tax credit shall be approved for
24 activities that are part of a business firm's normal course of
25 business.

26 (c) Tax liability.--A tax credit granted for any one taxable
27 year may not exceed the tax liability of a business firm.

28 (d) Use.--A tax credit not used in the taxable year the
29 contribution was made may not be carried forward or carried back
30 and is not refundable or transferable.

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1 Section 1707-I. Guidelines.

2 The department, in conjunction with the Department of Revenue
3 and the Department of Public Welfare may establish guidelines as
4 necessary to implement this article.

5 ~~Section 1708-I. Limitation.~~
6 ~~A business firm shall not be entitled to apply for a tax~~
7 ~~credit after the seventh fiscal year following the effective~~
8 ~~date of this article.~~

9 Section 19.1. Section 1801-B of the act is amended by adding
10 definitions to read:

11 Section 1801-B. Definitions.

12 The following words and phrases when used in this article
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Small business." A company that is engaged in a for-profit
17 enterprise and that employs 100 or fewer individuals.

18 * * *

19 "Unemployed individual." An individual who at the time of
20 hiring meets all of the following:

21 (1) Is hired on or after July 1, 2012.

22 (2) Certifies by signed affidavit, under penalty of
23 perjury, that the individual has not been employed during the
24 60-day period ending on the date the individual begins
25 employment.

26 (3) Is not employed by the company to replace another
27 employee of the company unless the other employee separated
28 from employment voluntarily or for cause.

29 (4) Will perform duties connected to the new job for at
30 least 52 consecutive weeks.

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1 * * *

2 Section 19.2. Sections 1803-B(b) and (c) and 1804-B(a), (d)
3 and (e) of the act, added June 22, 2001 (P.L.353, No.23), are
4 amended to read:

5 Section 1803-B. Application process.

6 * * *

7 (b) Creation of jobs.--[The] Except as provided under this
8 subsection, an applicant must agree to create at least 25 new
9 jobs or to increase the applicant's number of employees by at
10 least 20% within three years of the start date. A small business
11 applicant must agree to increase the applicant's number of
12 employees by at least 10% within three years after the start
13 date.

14 (c) Approval.--If the department approves the company's
15 application, the department and the company shall execute a
16 commitment letter containing the following:

17 (1) A description of the project.

18 (2) The number of new jobs to be created.

19 (3) The amount of private capital investment in the
20 project.

21 (3.1) A statement authorizing the per job credit as a
22 single year or multiple year credit.

23 (4) The maximum job creation tax credit amount the
24 company may claim.

25 (5) A signed statement that the company intends to
26 maintain its operation in this Commonwealth for five years
27 from the start date.

28 (6) Such other information as the department deems
29 appropriate.

30 * * *

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1 Section 1804-B. Tax credits.

2 (a) Maximum amount.--A company may claim a tax credit of

3 \$1,000 per new job created, or \$2,500 per each new job created

4 if the newly created job is filled by an unemployed individual,
5 up to the maximum job creation tax credit amount specified in
6 the commitment letter.

7 * * *

8 (d) Tax credit term.--A company may claim the job creation
9 tax credit for each new job created, as approved by the
10 department, for a [period determined by the department but not
11 to exceed] one-year, two-year or three-year period as authorized
12 by the department, except that no tax credit may be claimed for
13 more than five years from the date the company first submits a
14 job creation tax credit certificate.

15 (e) Availability of tax credits.--Each fiscal year,
16 [\$22,500,000] \$10,100,000 in tax credits shall be made available
17 to the department and may be awarded by the department in
18 accordance with this article. In addition, in any fiscal year,
19 the department may reissue or assign prior fiscal year tax
20 credits which have been recaptured under section 1806-B(a) or
21 (b) and may award prior fiscal year credits not previously
22 issued. Prior fiscal year credits may be reissued, assigned or
23 awarded by the department without limitation by section 1805-
24 B(b) .

25 Section 20. The definition of "community services" in
26 section 1902-A of the act, amended May 7, 1997 (P.L.85, No.7),
27 is amended and the section is amended by adding a definition to
28 read:

29 Section 1902-A. Definitions.--The following words, terms and
30 phrases, when used in this article, shall have the meanings

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1 ascribed to them in this section, except where the context
2 clearly indicates a different meaning:

3 * * *

4 "Charitable food program." An emergency food provider or a
5 regional food bank as defined in section 2 of the act of
6 December 11, 1992 (P.L.807, No.129), known as the "State Food
7 Purchase Program Act."

8 "Community services." Any type of counseling and advice,
9 emergency assistance, food assistance or medical care furnished
10 to individuals or groups in an impoverished area.

11 * * *

12 Section 21. Section 1904-A(b.1) of the act, amended July 25,
13 2007 (P.L.373, No.55), is amended and the section is amended by
14 adding a subsection to read:

15 Section 1904-A. Tax Credit.--* * *

16 (b.1) The secretary shall take into special consideration,
17 when approving applications for neighborhood assistance tax
18 credits, applications which involve:

19 (1) multiple projects in various markets throughout this
20 Commonwealth; and

21 (2) charitable food programs.

22 (b.2) The secretary, in cooperation with the Department of
23 Agriculture, shall promulgate guidelines for the approval or
24 disapproval of applications for tax credits by business firms

25 that contribute food or money to charitable food programs.

26 * * *

27 Section 21.1. Section 2005 of the act, amended July 25, 2007
28 (P.L.373, No.55), is amended to read:

29 Section 2005. Assessment by Department.--(a) If any person
30 shall fail to pay any tax imposed by this article for which he
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1 is liable, the department is hereby authorized and empowered to
2 make an assessment of additional tax due by such person, based
3 upon any information within its possession. or that shall come

upon any information which is in its possession, or that shall come into its possession.

(b) Promptly after the date of such assessment, the department shall send a copy of the assessment, including the basis of the assessment, to the person against whom it was made. Within ninety days after the date upon which the copy of any such assessment was mailed, such person may file with the department a petition for reassessment of such taxes. Every petition for reassessment shall state specifically the reasons which the petitioner believes entitle him to such reassessment, and it shall be supported by affidavit that it is not made for the purpose of delay, and that the facts set forth therein are true. It shall be the duty of the department, within six months after the date of any assessment, to dispose of any petition for reassessment. Notice of the action taken upon any petition for reassessment shall be given to the petitioner promptly after the date of reassessment by the department.

[(b.1) The notice required by subsection (b) shall be sent by certified mail if the assessment is for \$300 or more.]

(c) Within ninety days after the date of mailing of notice by the department of the action taken on any petition for reassessment filed with it, the person against whom such assessment was made, may, by petition, request the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reason upon which the petitioner relies, or shall incorporate by reference the petition for reassessment in which such reasons shall have been stated. The petition shall be supported by affidavit that

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it is not made for the purpose of delay, and that the facts therein set forth are true. If the petitioner be a corporation,

3 joint-stock association or limited partnership, the affidavit
4 must be made by one of the principal officers thereof. A
5 petition for review may be amended by the petitioner at any time
6 prior to the hearing, as hereinafter provided. The Board of
7 Finance and Revenue shall act finally in disposition of such
8 petitions filed with it within six months after they have been
9 received, and, in the event of the failure of said board to
10 dispose of any such petition within six months, the action taken
11 by the department upon the petition for reassessment shall be
12 deemed sustained. The Board of Finance and Revenue may sustain
13 the action taken on the petition for reassessment, or it may
14 reassess the tax due upon such basis as it shall deem according
15 to law and equity. Notice of the action of the Board of Finance
16 and Revenue shall be given by mail, or otherwise, to the
17 department and to the petitioner.

18 (d) In all cases of petitions for reassessment, review or
19 appeal, the burden of proof shall be upon the petitioner or
20 appellant, as the case may be.

21 (e) Whenever any assessment of additional tax is not paid
22 within ninety days after the date of the assessment, if no
23 petition for reassessment has been filed, or within ninety days
24 from the date of reassessment, if no petition for review has
25 been filed, or within thirty days from the date of the decision
26 of the Board of Finance and Revenue upon a petition for review,
27 or the expiration of the board's time for acting upon such
28 petition, if no appeal has been made, and in all cases of
29 judicial sales, receiverships, assignments or bankruptcies, the
30 department may call upon the Office of Attorney General to

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1 collect such assessment. In such event, in a proceeding for the
2 collection of such taxes, the person against whom they were

3 assessed shall not be permitted to set up any ground of defense
 4 that might have been determined by the department, the Board of
 5 Finance and Revenue or the courts. The department may also
 6 certify to the Liquor Control Board, for such action as the
 7 board may deem proper, the fact that any person has failed to
 8 pay or duly appeal from such assessment of additional tax. The
 9 department may also provide, adopt, promulgate and enforce such
 10 rules and regulations, as may be appropriate, to prevent further
 11 shipment or transportation of malt or brewed beverages into this
 12 Commonwealth by any person against whom such unpaid assessment
 13 shall have been made.

14 Section 22. Section 2102 of the act is amended by adding
 15 definitions to read:

16 Section 2102. Definitions.--The following words, terms and
 17 phrases, when used in this article, shall have the meanings
 18 ascribed to them in this section, except where the context
 19 clearly indicates a different meaning:

20 * * *

21 "Business of agriculture." The term shall include the
 22 leasing to members of the same family or the leasing to a
 23 corporation or association owned by members of the same family
 24 of property which is directly and principally used for
 25 agricultural purposes. The business of agriculture shall not be
 26 deemed to include:

27 (1) recreational activities such as, but not limited to,
 28 hunting, fishing, camping, skiing, show competition or racing;

29 (2) the raising, breeding or training of game animals or
 30 game birds, fish, cats, dogs or pets or animals intended for use
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1 in sporting or recreational activities;

2 (3) fur farming;

3 (4) stockyard and slaughterhouse operations; or

... , and agricultural operations, or

(5) manufacturing or processing operations of any kind.

* * *

"Members of the same family." Any individual, such

individual's brothers and sisters, the brothers and sisters of

such individual's parents and grandparents, the ancestors and

lineal descendants of any of the foregoing, a spouse of any of

the foregoing and the estate of any of the foregoing.

Individuals related by the half blood or legal adoption shall be

treated as if they were related by the whole blood.

* * *

Section 23. Section 2111 of the act is amended by adding subsections to read:

Section 2111. Transfers Not Subject to Tax.--* * *

(s) A transfer of real estate devoted to the business of agriculture between members of the same family, provided that after the transfer the real estate continues to be devoted to the business of agriculture for a period of seven years beyond the transferor's date of death and the real estate derives a yearly gross income of at least two thousand dollars (\$2,000), provided that:

(1) Any tract of land under this article which is no longer devoted to the business of agriculture within seven years beyond the transferor's date of death shall be subject to inheritance tax due the Commonwealth under section 2107, in the amount that would have been paid or payable on the basis of valuation authorized under section 2121 for nonexempt transfers of property, plus interest thereon accruing as of the transferor's

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date of death, at the rate established in section 2143.

(2) Any tax imposed under section 2107 shall be a lien in

3 favor of the Commonwealth upon the property no longer being
4 devoted to agricultural use, collectible in the manner provided
5 for by law for the collection of delinquent real estate taxes,
6 as well as the personal obligation of the owner of the property
7 at the time of the change of use.

8 (3) Every owner of real estate exempt under this subsection
9 shall certify to the department on an annual basis that the land
10 qualifies for this exemption and shall notify the department
11 within thirty days of any transaction or occurrence causing the
12 real estate to fail to qualify for the exemption. Each year the
13 department shall inform all owners of their obligation to
14 provide an annual certification under this subclause. This
15 certification and notification shall be completed in the form
16 and manner as provided by the department.

17 (s.1) A transfer of an agricultural commodity, agricultural
18 conservation easement, agricultural reserve, agricultural use
19 property or a forest reserve, as those terms are defined in
20 section 2122(a), to lineal descendants or siblings is exempt
21 from inheritance tax.

22 Section 24. Sections 2702 and 2703 of the act, added October
23 18, 2006 (P.L.1149, No.119), are amended to read:

24 Section 2702. Petition for reassessment.

25 (a) General rule.--A taxpayer may file a petition for
26 reassessment with the department within 90 days after the
27 mailing date of the notice of assessment.

28 (a.1) Petition for review of tax adjustment not resulting in
29 an increase in liability.--

30 (1) A petition for reassessment under subsection (a) may

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1 include a request for review of the department's adjustment

2 of a tax item if the adjustment did not result in a tax
3 increase in the year of adjustment but may increase the tax
4 due in a subsequent year. A request for review may include:

5 (i) Recalculation of the taxpayer's corporate net
6 income tax net loss under Article IV as adjusted by the
7 department.

8 (ii) Recalculation of the taxpayer's capital stock
9 franchise tax average net income under Article VI as
10 adjusted by the department.

11 (iii) Recalculation of the personal income tax basis
12 of an asset under Article III as adjusted by the
13 department.

14 (2) A taxpayer must file a petition for review under
15 this subsection within 90 days of the mailing date of the
16 department's notice of adjustment. A taxpayer's failure to
17 file a petition under this subsection shall not prejudice the
18 taxpayer's right to file a petition in a subsequent tax year.

19 (b) Special rule for shares taxes.--Notwithstanding any
20 provision of law to the contrary, section 1104.1 of the act of
21 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, shall
22 constitute the exclusive method by which an appeal from the
23 assessment of the tax imposed by Article VII or VIII may be
24 made.

25 (c) Application to inheritance and estate taxes.--This
26 section shall not apply to the taxes imposed by Article XXI.
27 Part XI of Article XXI shall provide the exclusive procedure for
28 protesting the appraisement and assessment of taxes imposed by
29 Article XXI.

30 Section 2703. Petition procedure.

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1 (a) Content of petition.--

(1) A petition for reassessment shall state:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been erroneously assessed.

(iii) The basis upon which the taxpayer claims that the assessment is erroneous.

(iv) The basis upon which the taxpayer claims that the adjustment of a tax item is erroneous.

(2) A petition for refund shall state:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been overpaid.

(iii) The basis of the taxpayer's claim for refund.

(3) The petition shall be supported by an affidavit by the petitioner or the petitioner's authorized representative that the petition is not made for the purpose of delay and that the facts set forth in the petition are true.

(b) Request for hearing.--Upon written request of the petitioner or when deemed necessary by the department, the department shall schedule a hearing to review a petition. The petitioner shall be notified by the department of the date, time and place where the hearing will be held.

(c) Decision and order.--The department shall issue a decision and order disposing of a petition on such basis as it deems to be in accordance with law. The department shall provide a written explanation of the basis for any denial of relief.

(d) Time limit for decision and order.--The department shall

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1 issue a decision and order disposing of a petition within six

2 months after receipt of the petition. The petitioner and the
3 department may agree to extend the time period for the
4 department to dispose of the petition for one additional six-
5 month period. Notice of the department's decision and order
6 disposing of the petition shall be issued to the petitioner.

7 (e) Exception to time limit for decision and order.--If at
8 the time of the filing of a petition proceedings are pending in
9 a court of competent jurisdiction wherein any claim made in the
10 petition may be established, the department, upon the written
11 request of the petitioner, may defer consideration of the
12 petition until the final judgment determining the question or
13 questions involved in the petition has been decided. If
14 consideration of the petition is deferred, the department shall
15 issue a decision and order disposing of the petition within six
16 months after the final judgment.

17 (f) Failure of department to take action.--The failure of
18 the department to dispose of the petition within the time period
19 provided for by subsection (d) or (e) shall act as a denial of
20 the petition. Notice of the department's failure to take action
21 and the denial of the petition shall be mailed to the
22 petitioner.

23 Section 25. The act is amended by adding a section to read:

24 Section 2707. Compromise by secretary.

25 (a) General rule.--A taxpayer who has filed a petition for
26 relief under section 2703, or any other statutory provision
27 allowing for administrative tax appeal to the department, may
28 propose a compromise of the amount of liability for tax,
29 interest, penalty, additions or fees administered by the
30 department. The compromise offer must be submitted prior to a

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1 final decision by the department on the petition. An informal
2 conference, in person or by telephone, may be conducted by the
3 department with representatives of the department and the
4 petitioner. If the compromise offer is accepted, the department
5 shall issue an order reflecting the compromise that shall not be
6 subject to further appeal.

7 (b) Bases for compromise.--There shall be two bases for
8 compromise:

9 (1) doubt as to liability; and

10 (2) the promotion of effective tax administration.

11 (c) Ineligible for compromise.--The following are not
12 eligible for compromise:

13 (1) a petition of denial of property tax or rent rebate
14 claim;

15 (2) a petition of denial of a charitable tax exemption;

16 (3) a petition of the revocation of a sales tax license;

17 (4) a petition of jeopardy assessments; or

18 (5) a petition arising under 4 Pa.C.S. Pt. II (relating
19 to gaming).

20 Section 26. Section 3003.1 of the act, amended May 7, 1997
21 (P.L.85, No.7) and repealed in part June 29, 2002 (P.L.559,
22 No.89), is amended to read:

23 Section 3003.1. Petitions for Refunds.--(a) For a tax
24 collected by the Department of Revenue, a taxpayer who has
25 actually paid tax, interest or penalty to the Commonwealth or to
26 an agent or licensee of the Commonwealth authorized to collect
27 taxes may petition the Department of Revenue for refund or
28 credit of the tax, interest or penalty. Except as otherwise
29 provided by statute, a petition for refund must be made to the
30 department within three years of actual payment of the tax,

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1 interest or penalty.

- -----

2 (b) The department may grant a refund or credit to a
3 taxpayer for all tax periods covered by a departmental audit. If
4 a credit is not granted by the department in the audit report,
5 the taxpayer must file a petition for refund for taxes paid with
6 respect to the audit period within six months of the mailing
7 date of the notice of assessment, determination or settlement or
8 within three years of actual payment of the tax, whichever is
9 later.

10 (d) In the case of amounts paid as a result of an
11 assessment, determination, settlement or appraisement, a
12 petition for refund must be filed with the department within six
13 months of the [mailing date of the notice of assessment,
14 determination, settlement or appraisement] actual payment of the
15 tax.

16 (e) A taxpayer may petition the Board of Finance and Revenue
17 to review the decision and order of the department on a petition
18 for refund. The petition for review must be filed with the board
19 within ninety days of the mailing date of a decision and order
20 of the department upon a petition for refund.

21 Section 26.1. The act is amended by adding a section to
22 read:

23 Section 3003.22. Administrative Bank Attachment for Accounts
24 of Obligors to the Commonwealth.--(a) Provided that an obligor
25 has not entered into and is in compliance with a deferred
26 payment plan with the department, the department may order the
27 attachment and seizure of funds in an obligor's account that the
28 department reasonably believes to hold property subject to a
29 lien recorded in favor of the Commonwealth for tax, interest
30 additions or penalties due to the Commonwealth. Upon receiving

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1 seized funds, the department shall apply the amount seized to

2 the obligor's lien obligation.

3 (b) (1) If the department has a reasonable belief that an
4 obligor's account holds property subject to a lien in favor of
5 the Commonwealth, the department may order the attachment of
6 funds in the obligor's account by sending a notice to the
7 financial institution.

8 (2) The notice given to a financial institution attaching an
9 account of the obligor shall be sent by an electronic format or
10 any other reasonable manner as agreed to by the department and
11 the financial institution.

12 (3) The notice shall include all of the following:

13 (i) The name of the obligor.

14 (ii) The amount of the Commonwealth's lien, including
15 interest and penalty accrued up to forty-five days after the
16 date of notice.

17 (iii) The current or last known address of the obligor.

18 (iv) The Social Security number, Federal employer
19 identification number or other taxpayer identification number of
20 the obligor.

21 (v) An order to immediately attach one or more accounts held
22 by the financial institution in the name of the obligor for an
23 aggregate amount equal to the lesser of the amounts in all
24 accounts or the Commonwealth's lien.

25 (c) (1) Upon receipt of the notice described in subsection
26 (b), the financial institution shall, by the end of the fifth
27 business day following the date of the notice, attach one or
28 more of the accounts of the obligor held by the financial
29 institution for an aggregate amount equal to the lesser of:

30 (i) the total of the amounts in all the accounts of the

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1 obligor held by the financial institution as of the date of
2 attachment; or
3 (ii) the amount stated in the notice.

4 Upon the attachment and until the financial institution receives
5 further notice from the department or on order of a court, as
6 provided in this section, the financial institution may not
7 allow any activity to reduce the amounts in any of the accounts
8 below the amount of the attachment.

9 (2) Within five days after date of notice to the financial
10 institution described in subsection (b), the financial
11 institution shall inform the department that the financial
12 institution has complied with the attachment order and shall
13 specify the aggregate amount attached pursuant to the order.

14 (3) (i) The financial institution may assess a reasonable
15 administrative fee against the accounts or the obligor in
16 addition to the amount attached. An administrative fee may
17 include a fee permitted to be assessed under an agreement
18 between the obligor and the financial institution in connection
19 with the early withdrawal of a certificate of deposit attached
20 under this section.

21 (ii) In the case of insufficient funds to cover both the fee
22 authorized by subparagraph (i) and the amount identified in the
23 notice under subsection (b), the financial institution may first
24 deduct the fee from the amount attached and retain it from the
25 amount seized and forwarded to the department as provided in
26 this section.

27 (d) (1) Except as otherwise provided in paragraph (3), no
28 later than five business days after the date of the notice in
29 subsection (b)(2), the department shall send a notice to the
30 obligor by first class mail to the obligor's current or last

1 known address and may attempt to deliver personal notice to the
2 obligor.

3 (2) The notice shall contain the following information:

4 (i) The address of the department.

5 (ii) The telephone number, address and name of a contact
6 person at the department.

7 (iii) The name and Social Security number, Federal employer
8 identification number or other taxpayer identification number of

9 the obligor.

10 (iv) The current or last known address of the obligor.

11 (v) The total amount of the Commonwealth's lien owed by the
12 obligor, including interest and penalty accrued up to forty-five
13 days after the date of notice.

14 (vi) The date the notice is being sent.

15 (vii) A statement informing the obligor that the department
16 has ordered the financial institution to attach the amount of
17 the Commonwealth's lien owed by the obligor from one or more of
18 the accounts of the obligor.

19 (viii) For each account of the obligor, the name of the
20 financial institution that has been given notice to attach
21 amounts as required by this section.

22 (ix) A statement that the order may be challenged or relief
23 from the order requested in accordance with subsection (e).

24 (x) A statement informing the obligor that unless a timely
25 challenge is made by the obligor, the financial institution or
26 an account holder of interest under subsection (e), the
27 department shall notify the financial institution to seize the
28 amount attached by the financial institution and forward it to
29 the department.

30 (3) The department shall not be required to send the notice

1 described under this subsection if, prior to the time that the
2 notice must be sent, the department and the obligor agree to an
3 arrangement under which the obligor will pay amounts owed under
4 the Commonwealth's lien.

5 (e) (1) An obligor, the financial institution or an account
6 holder of interest may challenge the actions of the department
7 under this section by filing a motion with the court of common
8 pleas within ten days of the date of the notice sent under
9 subsection (d).

10 (2) An obligor, the financial institution or an account
11 holder of interest may challenge or seek relief from the actions
12 of the department based on:

13 (i) a mistake as to any of the following:

14 (A) The identity of the obligor.

15 (B) The ownership of the account.

16 (C) The contents of the account.

17 (D) The amount of the lien obligation due.

18 (ii) the exclusion of the account from attachment under this
19 section;

20 (iii) the failure of the department to properly record the
21 lien upon which the attachment is based;

22 (iv) the failure of the department to send notice to the
23 obligor of the assessment or determination of the tax, interest,
24 penalties or addition to tax upon which the attachment is based;

25 (v) severe economic hardship;

26 (vi) a request for spousal relief from joint liability; or

27 (vii) any other good cause.

28 (3) Except as provided in paragraph (2)(iv), an obligor, the
29 financial institution or an account holder of interest may not
30 challenge the actions of the department based on a mistake or

1 error in the original assessment underlying a lien against the
2 obligor.

3 (f) (1) If a timely challenge or request from relief is not
4 made by the obligor, the financial institution or an account
5 holder of interest under subsection (e), the department shall
6 direct the financial institution to:

7 (i) seize the amount attached by the financial institution
8 and forward it to the department;

9 (ii) reduce the amount attached by the financial institution
10 to a revised amount as stated by the department, seize the
11 revised amount and forward it to the department and release the
12 balance of the account; or

13 (iii) release the amount attached by the financial
14 institution.

15 (2) The department may direct a financial institution to
16 seize and forward attached funds before the time for filing a
17 timely challenge under subsection (e) upon agreement among the
18 department, the obligor and, in cases where the department is
19 aware of an account holder of interest, the account holder of
20 interest.

21 (g) (1) If a determination is made by the court, pursuant
22 to a challenge or request for relief under subsection (e), that
23 the account of the obligor should not have been attached, the
24 department shall notify the financial institution, in the manner
25 specified in subsection (b)(2), to release the amount attached
26 by the financial institution.

27 (2) If a determination is made by the court, pursuant to a
28 challenge or request for relief under subsection (e), to reduce
29 the amount attached by the financial institution, the department
30 shall notify the financial institution, in the manner specified

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1 in subsection (b)(2), to revise the amount as stated by the
2 department, to seize and forward the revised amount to the
3 department and to release the balance of the account attached by
4 the financial institution.

5 (3) If a determination is made by the court, pursuant to a
6 challenge or request for relief made under subsection (e), that
7 the attachment by the financial institution was proper, the
8 department shall notify the financial institution, in the manner
9 specified in subsection (b)(2), to seize the amount attached by
10 the financial institution and forward it to the department.

11 (h) A financial institution that complies with an order and
12 notice from the department under this section shall not be
13 criminally or civilly liable to any person, including the
14 department, the obligor or any account holder of interest, for
15 any of the following:

16 (1) disclosing information to the department under this
17 section;

18 (2) attaching an account as directed by the department;

19 (3) sending any amount seized to the department;

20 (4) wrongful dishonor or any other claim relating to the
21 attachment and seizure of any account as ordered by the
22 department; or

23 (5) any other action taken in good faith to comply with the
24 requirements of this section.

25 (i) A financial institution shall not be required to
26 reimburse fees assessed against an account or an obligor as a
27 result of the department instituting an action under this
28 section or as otherwise permitted by law or authorized by
29 contract even if there is a successful challenge or relief is
30 granted under subsection (e).

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1 (j) (1) If, under the provisions of this section, a
2 financial institution fails to attach accounts as required in a
3 timely manner or fails to forward the proper amount of funds
4 attached to the department at the time and in the manner
5 required by this section, the financial institution may be
6 subject to a penalty of five per cent of the amount of funds
7 which should have been attached or forwarded for each month or
8 fraction thereof from the date the funds should have been
9 attached or forwarded to the date the funds are attached or
10 forwarded. The total amount of the penalty shall not exceed
11 fifty per cent of the proper amount of funds which should have
12 been attached or forwarded.

13 (2) The penalty imposed by this section shall be assessed,
14 enforced, administered or collected under the provisions of
15 Article II.

16 (k) This section shall not be construed to prohibit the
17 department or any other Commonwealth agency from collecting
18 obligations due from an obligor in any other manner authorized
19 by law.

20 (l) No financial institution may be required to notify an
21 obligor or an account holder of interest of a request for
22 information under this section by the department or a court.

23 (m) Prior to attaching an account under this section, the
24 department shall develop guidelines:

25 (1) describing its tax collection procedures;

26 (2) describing the rights and remedies available to
27 taxpayers;

28 (3) disclosing the circumstances in which the department may
29 attach an account under this section;

30 (4) describing the policies regarding spousal relief and

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1 severe economic hardship relief;

2 (5) advising financial institutions of the requirements of
3 this section; and

4 (6) describing the department's policies and procedures used
5 to attach and seize accounts under this section.

6 (n) As used in this section, the following words and phrases
7 shall have the meanings given to them in this subsection:

8 "Account." (1) Any of the following:

9 (i) Funds from a demand deposit account, checking account,
10 negotiable order of withdrawal account, savings account, time
11 deposit account, money market mutual fund account or certificate
12 of deposit account.

13 (ii) Funds paid toward the purchase of shares or other
14 interest in an entity as described in paragraphs (1) and (2) of
15 the definition of "financial institution."

16 (iii) Funds or property held by a depository institution as
17 described in paragraph (3) of the definition of "financial
18 institution."

19 (2) The term shall not include any of the following:

20 (i) An account subject to a security interest, control
21 agreement or pledged security for a loan or other obligation.

22 (ii) Funds or property deposited to an account after the
23 time that a financial institution initially attaches the
24 account.

25 (iii) An account that a financial institution has a present
26 right to exercise a right of setoff either under an agreement
27 between the financial institution and the obligor or otherwise
28 under applicable law.

29 (iv) An account that has an account holder of interest named
30 as an owner on the account.

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1 (v) An account that an obligor does not have an
2 unconditional right of access.

3 (vi) An account that can not be attached under Federal law.

4 "Account holder of interest." A person, other than an
5 obligor of an account, who asserts an interest in an account
6 based upon ownership, possession of a security interest, lien or
7 judgment.

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

9 "Financial institution." Any of the following:

10 (1) A depository institution, as defined in section 3(c) of
11 the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. §
12 1813(c)).

13 (2) A Federal credit union or State credit union, as defined
14 in section 1752(1) of the Federal Credit Union Act (48 Stat.
15 1216, 12 U.S.C. § 1752(1)).

16 (3) A benefit association, safe deposit company, money
17 market mutual fund or similar entity doing business in this
18 Commonwealth that holds property or maintains accounts
19 reflecting property belonging to others.

20 "Obligor." Any of the following:

21 (1) An entity engaged in a business whose property is
22 subject to a Commonwealth tax lien or liens totaling at least
23 one thousand dollars (\$1,000).

24 (2) An individual operating as a sole proprietor whose
25 property is subject to a Commonwealth tax lien or liens totaling
26 at least one thousand dollars (\$1,000).

27 (3) A shareholder, member or partner of a pass-through
28 entity whose property is subject to a Commonwealth tax lien or
29 liens totaling at least one thousand dollars (\$1,000).

30 (4) A corporate officer or other responsible individual who

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1 has been assessed pursuant to the provisions of section 225 or
2 320 and whose property is subject to a Commonwealth tax lien or
3 liens totaling at least one thousand dollars (\$1,000).
4 "Pass-through entity." A partnership as defined in section
5 301(n.0) or a Pennsylvania S corporation as defined in section
6 301(n.1).

7 Section 27. A reference in any law to the former definition
8 of "family farm corporation" or "family farm partnership" in
9 section 1101-C of the act shall be deemed to be references to a
10 "family farm business" under section 1101-C of the act.

11 Section 27.1. A company may claim the tax credit under
12 section 1804-B of the act for each newly created job filled by
13 an unemployed individual on or after the effective date of this
14 section.

15 SECTION 27.2. THE PROVISIONS OF THIS ACT ARE SEVERABLE.

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16 Section 28. Repeals are as follows:

17 (1) The General Assembly declares that the repeal under
18 paragraph (2) is necessary to effectuate the amendment of
19 sections 217 and 222 of the act.

20 (2) Section 202.2 of the act of April 9, 1929 (P.L.343,
21 No.176), known as The Fiscal Code, is repealed.

22 (3) The General Assembly declares that the repeal under
23 paragraph (4) is necessary to effectuate the amendment of
24 section 1709-B(a) of the act.

25 (4) Section 1602-H of the act of April 9, 1929 (P.L.343,
26 No.176), known as The Fiscal Code, is repealed.

27 (5) (Reserved).

28 (6) (Reserved).

29 (7) (Reserved).

30 (8) (Reserved).

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1 (9) The General Assembly declares that the repeal under
2 paragraph (10) is necessary to effectuate the addition of
3 Article XVII-H of the act.

4 (10) The provisions of 27 Pa.C.S. § 6104(d.2) (2) are
5 repealed.

6 Section 29. The provisions of 61 Pa. Code § 91.222 (relating
7 to acquired family farm partnership) are abrogated.

8 Section 29.1. The amendment of sections 217 and 222 of the
9 act are a continuation of section 202.2 of the act of April 9,
10 1929 (P.L.343, No.176), known as The Fiscal Code. Except as
11 otherwise provided in sections 217 and 222 of the act, all
12 activities initiated under section 202.2 of The Fiscal Code
13 shall continue and remain in full force and effect and may be
14 completed under sections 217 and 222 of the act. Orders,
15 regulations, rules and decisions which were made under section
16 202.2 of The Fiscal Code and which are in effect on the
17 effective date of the amendment of sections 217 and 222 of the
18 act shall remain in full force and effect until revoked, vacated
19 or modified under section 217 or 222 of the act.

20 Section 30. The following shall apply:

21 (1) The amendment of sections 217 and 222 of the act
22 shall apply to tax returns due after September 30, 2012.

23 (2) The amendment or addition of sections 331(e), (e.1)
24 and (e.2), 352(d) (2), 405 and 406 of the act shall apply to
25 tax years beginning on or after January 1, 2013.

26 (3) (Reserved).

27 (4) Except as provided in paragraph (5), the amendment
28 or addition of sections 1101-C, 1102-C.3(19), (19.1) and
29 (20), 1102-C.4 and 1102-C.5 of the act shall apply

30 retroactively to any document made, executed, delivered,
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1 accepted or presented for recording on or after July 1, 2010.

2 (5) The addition of section 1102-C.5(a)(3) of the act
3 shall not apply to a transaction or a series of transactions
4 occurring in part or entirely before January 1, 2013.

5 (6) The addition of Article XVII-G of the act shall
6 apply to the purchase of ethane for the period after December
7 31, 2016, and before January 1, 2043.

8 (7) The amendment or addition of sections 2102 and
9 2111(s) and (s.1) of the act shall apply to the estates of
10 decedents dying after June 30, 2012.

11 (8) The following provisions shall apply to tax periods
12 which, on the effective date of this section, are open under
13 the act; to administrative appeals pending on the effective
14 date of this section; and to judicial appeals pending on the
15 effective date of this section:

16 (i) The addition of section 2702(a.1) of the act.

17 (ii) The addition of section 2703(a)(1)(iv) of the
18 act.

19 (9) The amendment of section 3003.1 of the act shall
20 apply to petitions filed after July 1, 2012.

21 Section 31. This act shall take effect as follows:

22 (1) The addition of sections 1102-C.5(a)(3) and 3003.22
23 of the act shall take effect January 1, 2013.

24 (2) The amendment of the definition of "wholesaler" in
25 section 1201 of the act shall take effect in 60 days.

26 (3) The amendment of sections 217 and 222 of the act
27 shall take effect October 1, 2012.

28 (4) Section 28(2) of this act shall take effect October
29 1, 2012.

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