

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1 Session of 2011

INTRODUCED BY PICCOLA, WILLIAMS, SCARNATI, PILEGGI, FOLMER, BROWNE, SMUCKER, ALLOWAY, ERICKSON, RAFFERTY, EICHELBERGER, PIPPY, D. WHITE, MENSCH, BRUBAKER, WASHINGTON AND STACK, JANUARY 26, 2011

REFERRED TO EDUCATION, JANUARY 26, 2011

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
 2 act relating to the public school system, including certain
 3 provisions applicable as well to private and parochial
 4 schools; amending, revising, consolidating and changing the
 5 laws relating thereto," providing for opportunity
 6 scholarships; establishing the Excess Scholarship Fund;
 7 providing for educational improvement tax credit; and
 8 repealing provisions of the Tax Reform Code of 1971 relating
 9 to educational improvement tax credit.

10 The General Assembly of the Commonwealth of Pennsylvania
 11 hereby enacts as follows:

12 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
 13 as the Public School Code of 1949, is amended by adding an
 14 article to read:

15 ARTICLE XXV-B

16 OPPORTUNITY SCHOLARSHIPS AND

17 EDUCATIONAL IMPROVEMENT TAX CREDIT

18 (a) Preliminary Provisions

19 Section 2501-B. Short title.

20 This article shall be known and may be cited as the

1 Opportunity Scholarship and Educational Improvement Tax Credit
2 Act.

3 (b) Opportunity Scholarships

4 Section 2501.1-B. Legislative findings.

5 The General Assembly finds that:

6 (1) Pursuant to section 14 of Article III of the
7 Constitution of Pennsylvania, the General Assembly has the
8 responsibility to provide for the maintenance and support of
9 a thorough and efficient system of public education to serve
10 the needs of this Commonwealth.

11 (2) Parents are best suited to choose the most
12 appropriate means of education for their school-age children.

13 (3) Providing diverse educational opportunities for the
14 children of this Commonwealth is a civic and civil rights
15 imperative and a matter of serious concern.

16 (4) The importance of providing educational choices that
17 will meet the needs of parents, and the need to maintain and
18 support an effective system of education, make it imperative
19 to provide for the increased availability of diverse
20 opportunities, including both public and nonpublic programs
21 of education, to benefit all citizens of this Commonwealth.

22 (5) Public schools are the foundation of the system of
23 education in this Commonwealth. Further, Pennsylvania's
24 longstanding tradition of local control of public education
25 allows communities to adapt their public school programs to
26 meet local needs. For these reasons, a robust program of
27 interdistrict school choice is a critical means of providing
28 families with increased educational options within the
29 traditional public school system.

30 (6) The accessibility to families of nonpublic

1 educational alternatives decreases the burden on the
2 Commonwealth and local school districts and increases the
3 range of educational choices available to Pennsylvania
4 families, thus providing a benefit to all citizens of this
5 Commonwealth.

6 (7) It is the long-term goal of the General Assembly to
7 offer assistance to all families in this Commonwealth, so as
8 to provide every child in this Commonwealth with diverse
9 educational opportunities and options.

10 (8) As an initial step toward the long-term goal of
11 offering assistance to all Pennsylvania families, this
12 subarticle provides assistance to disadvantaged school-age
13 children in this Commonwealth who would otherwise attend
14 persistently lowest achieving schools.

15 (9) Many disadvantaged school-age children in this
16 Commonwealth enjoy comparatively fewer educational
17 opportunities or options than school-age children who possess
18 greater economic means.

19 (10) The programs of educational choice provided in this
20 subarticle are elements of an overall program of providing
21 funds to increase the availability of educational
22 opportunities for school-age children in this Commonwealth.

23 (11) A comparatively far greater proportion of public
24 funds are and, upon implementation of an educational choice
25 program, will continue to be devoted to the benefit of
26 children enrolled in the public schools of this Commonwealth.
27 Therefore, an opportunity scholarship program that offers
28 assistance to parents who choose to enroll their children in
29 participating nonpublic schools should be viewed as an
30 integral part of the Commonwealth's overall program of

1 educational funding and not as an isolated individual
2 program.

3 (12) A program of financial assistance to enhance
4 educational choice in this Commonwealth, as one element of
5 the Commonwealth's plan for the funding of diverse
6 educational opportunities for the citizens of this
7 Commonwealth, will better prepare Commonwealth citizens to
8 compete for employment opportunities, will foster development
9 of a more capable and better-educated work force and will
10 better enable the Commonwealth to fulfill its obligation of
11 providing children with the opportunity to receive a quality
12 education.

13 Section 2502-B. Definitions.

14 The following words and phrases when used in this subarticle
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Assessment." The Pennsylvania System of School Assessment
18 test, the Keystone Exam, an equivalent local assessment or
19 another test established by the State Board of Education to meet
20 the requirements of section 2603-B(d)(10)(i) and required under
21 the No Child Left Behind Act of 2001 (Public Law 107-110, 115
22 Stat. 1425) or its successor Federal statute or required to
23 achieve other standards established by the department for the
24 public school or school district under 22 Pa. Code § 403.3
25 (relating to single accountability system).

26 "Average daily membership." A school district's average
27 daily membership as defined in section 2501(3).

28 "Board." The Education Opportunity Board established under
29 this subarticle.

30 "Department." The Department of Education of the

1 Commonwealth.

2 "Excess Scholarship Fund" or "Fund." The Excess Scholarship
3 Fund established in this subarticle.

4 "Federal poverty line." The official Federal poverty line as
5 defined in section 673(2) of Subtitle B of the Community
6 Services Block Grant Act (Public Law 97-35, 95 Stat. 511), as
7 adjusted from time to time.

8 "Household income." Income as used for the purposes of
9 determining eligibility for a free or reduced-price lunch under
10 the Richard B. Russell National School Lunch Act (60 Stat. 230,
11 1751 et seq.).

12 "Local scholarship." A scholarship that is both:

13 (1) Funded by the local revenues of a low-income child's
14 resident school district in an amount equal to at least 35%
15 of the school district's share of its total revenue per
16 average daily membership.

17 (2) Applied toward the low-income child's tuition to
18 attend a nonresident public school.

19 "Low-income child." A school-age child with a household
20 income that does not exceed 1.3 times the Federal poverty line
21 for the school year preceding the school year for which an
22 opportunity scholarship is to be distributed.

23 "Nonpublic school." A school, other than a public school,
24 located within this Commonwealth where a Commonwealth resident
25 may legally fulfill the compulsory school attendance
26 requirements of this act and that meets the applicable
27 requirements of Title VI of the Civil Rights Act of 1964 (Public
28 law 88-352, 78 Stat. 241). The term also includes a full-time or
29 part-time kindergarten program operated by a nonpublic school.

30 "Nonresident public school." A public school outside a

1 child's resident school district.

2 "Nonresident school district." A school district other than
3 the school district in which a school-age child resides.

4 "Nonresident student." A school-age child attending a public
5 school outside the child's resident school district.

6 "Opportunity scholarship." An opportunity scholarship
7 awarded to a low-income child under this subarticle to pay
8 tuition for the child to attend a nonresident public school or a
9 participating nonpublic school.

10 "Opportunity scholarship program" or "program." The
11 opportunity scholarship program established under this
12 subarticle.

13 "Opportunity scholarship recipient." A low-income child who
14 is awarded an opportunity scholarship under this subarticle.

15 "Parent." A Commonwealth resident who is a parent or
16 guardian of a school-age child.

17 "Participating nonpublic school." A nonpublic school located
18 in this Commonwealth and offering a program of instruction for
19 kindergarten through 12th grade, or a combination of grades,
20 that certifies to the board under section 2505-B that it meets
21 the following criteria:

22 (1) the nonpublic school does not discriminate in its
23 admission policies or practices for opportunity scholarship
24 applicants on the basis of measures of achievement or
25 aptitude or status as a handicapped person, provided,
26 however, that an applicant may be required to meet
27 established eligibility criteria for participation in magnet
28 schools or in schools with specialized academic missions; and

29 (2) the nonpublic school is in full compliance with all
30 Federal and State laws.

1 "Persistently lowest achieving school." A public elementary
2 or secondary school within this Commonwealth achieving within
3 the lowest measured group of 5% on the most recent assessment
4 for which data is posted on the Department of Education's
5 publicly accessible Internet website. The term does not include
6 a charter school, cyber charter school or area vocational-
7 technical school.

8 "Resident school district." The school district in which a
9 school-age child resides.

10 "School-age child." A child enrolling in kindergarten or in
11 grades 1 through 12.

12 "Student with a disability." A school-age child who has been
13 identified, in accordance with 22 Pa. Code Ch. 14 (relating to
14 special education services and programs), as a "child with a
15 disability," as defined in 34 CFR § 300.8 (relating to a child
16 with a disability).

17 "Total revenue per average daily membership." A school
18 district's total revenue per average daily membership.

19 Section 2503-B. Opportunity scholarship program.

20 (a) Establishment.--Beginning with the 2011-2012 school
21 year, the opportunity scholarship program shall be established
22 to provide scholarships to help low-income children pay tuition
23 to attend a nonresident public school or a participating
24 nonpublic school.

25 (b) Phase-in.--The opportunity scholarship program shall be
26 phased in as follows:

27 (1) During the 2011-2012 school year, the opportunity
28 scholarship program shall be available to low-income children
29 who satisfy both of the following:

30 (i) Attended a persistently lowest achieving school

1 during the 2010-2011 school year.

2 (ii) Will reside within the attendance boundary of a
3 persistently lowest achieving school during the 2011-2012
4 school year.

5 (2) During the 2012-2013 school year, the opportunity
6 scholarship program shall be available to low-income children
7 who qualified for the program for the 2011-2012 school year
8 under paragraph (1) and to low-income children who satisfy
9 both of the following:

10 (i) Attended a nonpublic school during the 2010-2011
11 school year.

12 (ii) Will reside within the attendance boundary of a
13 persistently lowest achieving school during the 2012-2013
14 school year.

15 (3) During the 2013-2014 school year and each school
16 year thereafter, the opportunity scholarship program shall be
17 available to all low-income children residing in this
18 Commonwealth.

19 (c) List of persistently lowest achieving schools to be
20 published.--By April 1, 2011, and by February 1 of each year
21 thereafter, the department shall publish on the department's
22 publicly accessible Internet website and in the Pennsylvania
23 Bulletin a list of persistently lowest achieving schools that
24 will be in effect for purposes of this subarticle for the
25 following school year. The department shall publish the list
26 based upon the most recent school year for which data is
27 available.

28 (d) Notice to residents with school-age children.--

29 (1) By May 1, 2011, and by March 1 of each year
30 thereafter, each school district in this Commonwealth shall

1 provide all residents of the school district with school-age
2 children with notice of the following:

3 (i) A description of the opportunity scholarship
4 program.

5 (ii) Instructions for applying for an opportunity
6 scholarship.

7 (iii) Instructions for applying for a local
8 scholarship where the school district has elected to
9 provide a local scholarship under section 2504-B(b).

10 (iv) A statement as to whether any schools in the
11 school district have been designated by the department as
12 persistently lowest achieving schools.

13 (v) Notice that a parent must contact directly the
14 nonresident public school or participating nonpublic
15 school in which the parent's child seeks to enroll for
16 application instructions.

17 (2) The school district shall provide such notice by
18 mail to all residents of the school district with school-age
19 children and by notice posted on the school district's
20 publicly accessible Internet website. The notice shall be in
21 a form provided by the board.

22 Section 2504-B. Opportunity scholarship to attend a nonresident
23 public school.

24 (a) Eligibility.--A low-income child who is eligible to
25 participate in the opportunity scholarship program may receive
26 an opportunity scholarship to pay tuition to attend a
27 nonresident public school that accepts a child's enrollment
28 application under subsection (d).

29 (b) Local scholarship.--A school district may elect to
30 provide a local scholarship to low-income children residing

1 within the school district to pay tuition to attend a
2 nonresident public school that accepts a child's enrollment
3 application under subsection (d). A school district that elects
4 to provide a local scholarship shall:

5 (1) By May 1, 2011, and by March 1 of each year
6 thereafter, notify all residents of the school district with
7 school-age children of the availability and amount of the
8 local scholarship for the following school year and the
9 process by which a low-income child may apply to the board to
10 receive the opportunity and local scholarships. The school
11 district shall provide the notice by mail to all residents of
12 the school district with school-age children and by notice
13 posted on the school district's publicly accessible Internet
14 website. The notice may be incorporated into the notice the
15 school district is required to provide under section 2503-
16 B(d).

17 (2) By May 1, 2011, and by March 1 of each year
18 thereafter, notify the board of the availability and amount
19 of the local scholarship for the following school year.

20 (3) When directed to do so by the board, pay to the
21 board the local scholarship for each low-income child
22 residing in the district who the board determines to be
23 eligible for the local scholarship and who the board confirms
24 has enrolled in a nonresident public school.

25 (4) Comply with all guidelines developed by the board
26 under section 2509-B.

27 (c) Application for opportunity and local scholarships.--

28 (1) By June 1, 2011, and by April 1 of each year
29 thereafter, pursuant to guidelines developed by the board
30 under section 2509-B, the parent of a low-income child may

1 apply to the board:

2 (i) For an opportunity scholarship for the following
3 school year.

4 (ii) For a local scholarship for the following
5 school year, where the low-income child's resident school
6 district has elected to provide a local scholarship under
7 subsection (b).

8 (2) By July 1, 2011, and by May 1 of each year
9 thereafter, the board shall notify parents whether the
10 scholarships for which the student applied will be awarded
11 for the following school year.

12 (d) Application for enrollment in a nonresident public
13 school.--

14 (1) By July 15, 2011, and by June 1 of each year
15 thereafter, the parent of a low-income child who has been
16 awarded a scholarship under subsection (c) may apply to one
17 or more nonresident public schools for enrollment of the
18 child for the following school year. The application shall be
19 on a form provided by the nonresident school district.

20 (2) (i) The nonresident school district shall provide
21 written notice to the parent and the board by August 1,
22 2011, and by July 1 of each year thereafter, as to
23 whether the child will be offered enrollment in the
24 requested nonresident public school for the following
25 school year.

26 (ii) Within ten days of receipt of the notice, the
27 parent must provide written notice to the board, the
28 resident school district and the nonresident school
29 district whether the offer of enrollment will be
30 accepted.

1 (iii) If the child is not enrolled in a nonresident
2 public school, the child's resident school district shall
3 determine the public school within the resident school
4 district to which the child will be assigned.

5 (3) Each school district shall develop guidelines
6 setting forth the terms and conditions under which it will
7 enroll nonresident students receiving opportunity and local
8 scholarships and shall develop an enrollment application form
9 and process. If a school district determines to enroll
10 nonresident students receiving opportunity and local
11 scholarships, the school district must enroll such
12 nonresident students on a first-applied-first-accepted basis,
13 provided that:

14 (i) the nonresident student's enrollment in the
15 nonresident school district would not place either the
16 nonresident school district or the resident school
17 district in violation of a valid and binding
18 desegregation order;

19 (ii) the nonresident student has not been expelled
20 nor is the nonresident student in the process of being
21 expelled under section 1317.2 or 1318 and applicable
22 regulations of the State Board of Education; or

23 (iii) the nonresident student meets the established
24 eligibility criteria for participation in a magnet school
25 or in a public school with a specialized academic
26 mission.

27 (4) A nonresident school district may give priority in
28 enrollment to a nonresident student who has been awarded a
29 local scholarship.

30 (e) Commonwealth payments.--The Commonwealth shall make

1 payment pursuant to the schedule contained in section 2517 to
2 each school district or area vocational-technical school that
3 accepts a nonresident student under the provisions of this
4 subarticle subject to the following terms and conditions:

5 (1) The Commonwealth shall pay to each school district
6 or area vocational-technical school that accepts a
7 nonresident student, on a tuition basis, the amount
8 determined under section 2506-B.

9 (2) (i) For a nonresident student who is an opportunity
10 scholarship recipient and defined as a "student with a
11 disability," services provided to the opportunity
12 scholarship recipient shall be charged against the
13 Commonwealth's special education subsidy to the resident
14 school district, provided that the resident school
15 district shall not be charged more for services provided
16 to the opportunity scholarship recipient by the
17 nonresident school district than the difference between
18 the current year cost of the services had the opportunity
19 scholarship recipient remained in the resident school
20 district and the sum of the opportunity scholarship, the
21 local scholarship and the per pupil special education
22 funding following the opportunity scholarship recipient.

23 (ii) The resident school district shall provide the
24 board with documentation of the prior year's cost of
25 services provided to the opportunity scholarship
26 recipient and an estimate of the cost of providing those
27 services in the current year had the opportunity
28 scholarship recipient remained in the resident school
29 district. Any cost not covered by this funding shall be
30 borne by the nonresident school district enrolling the

1 opportunity scholarship recipient.

2 (3) An opportunity scholarship recipient shall be
3 included in the average daily membership of the opportunity
4 scholarship recipient's resident school district.

5 (f) Limitation.--The tuition charged by a nonresident school
6 district to an opportunity scholarship recipient under this
7 subarticle shall not exceed the sum of the opportunity
8 scholarship and the local scholarship awarded to the opportunity
9 scholarship recipient.

10 (g) Transportation.--Notwithstanding any provisions of
11 section 1361 to the contrary, a school district that provides
12 its resident public school pupils with transportation to and
13 from the resident public schools or to and from any points
14 within or without this Commonwealth in order to provide field
15 trips under section 1361 shall provide a student who resides
16 within the school district but regularly attends a nonresident
17 public school, including a charter school, that is located not
18 more than ten miles from the student's resident school district
19 by the nearest public highway, with transportation to and from
20 such nonresident public school or to and from any points within
21 or without this Commonwealth in order to provide field trips
22 under section 1361.

23 Section 2505-B. Opportunity scholarships to attend a
24 participating nonpublic school.

25 (a) Eligibility.--The parent of a low-income child who is
26 eligible to receive an opportunity scholarship under section
27 2503-B and desires to apply for an opportunity scholarship to
28 attend a participating nonpublic school must:

29 (1) By June 1, 2011, and by April 1 of each year
30 thereafter, apply to the board for an opportunity scholarship

1 for the following school year pursuant to guidelines
2 developed by the board under section 2509-B. By July 1, 2011,
3 and by May 1 of each year thereafter, the board shall notify
4 parents whether the opportunity scholarship will be awarded
5 for the following school year.

6 (2) Apply for enrollment directly to the participating
7 nonpublic school pursuant to application procedures developed
8 by the participating nonpublic school. By August 1, 2011, and
9 by July 1 of each year thereafter, a participating nonpublic
10 school shall provide written confirmation to the board of
11 each opportunity scholarship recipient whose application for
12 enrollment has been accepted for the following school year.

13 (b) Payment of opportunity scholarship awards.--The
14 Commonwealth shall provide payment of an opportunity scholarship
15 to the parents of each opportunity scholarship recipient who is
16 enrolled in a participating nonpublic school under the
17 provisions of this subarticle subject to the following terms and
18 conditions:

19 (1) Opportunity scholarships shall be awarded only for
20 the payment of costs of tuition at a participating nonpublic
21 school within this Commonwealth. Opportunity scholarships
22 shall not be awarded for enrollment in a home education
23 program provided under section 1327.1.

24 (2) Opportunity scholarships shall be paid to the
25 parents of an opportunity scholarship recipient upon the
26 board's receipt of written confirmation of enrollment from
27 the participating nonpublic school selected by the recipient.
28 The opportunity scholarship award shall be paid by check
29 which may be endorsed by the parents only for payment of
30 tuition at the participating nonpublic school at which the

1 opportunity scholarship recipient's enrollment has been
2 confirmed.

3 (3) In the event an opportunity scholarship recipient is
4 no longer enrolled in a participating nonpublic school prior
5 to the completion of the school year, the following shall
6 apply:

7 (i) The participating nonpublic school shall, within
8 15 days of the opportunity scholarship recipient's
9 withdrawal from the participating nonpublic school:

10 (A) Provide the board with written notice of the
11 opportunity scholarship recipient's withdrawal from
12 the participating nonpublic school.

13 (B) Return to the opportunity scholarship
14 recipient's parent the full amount of the opportunity
15 scholarship payment reduced on a pro rata basis by
16 the tuition for the portion of the school year in
17 which the opportunity scholarship recipient was
18 enrolled. The amount returned to the parent under
19 this paragraph shall be paid by check which may be
20 endorsed by the parents only for repayment to the
21 board of the refunded opportunity scholarship award.

22 (ii) If the parents of the opportunity scholarship
23 recipient fail to submit to the board the full amount of
24 the opportunity scholarship returned to the parents under
25 subparagraph (i) within 15 days of receipt of
26 notification from the board that such payment is due, the
27 board shall impose interest on the unpaid amount,
28 calculated from the due date at the rate determined by
29 the Secretary of Revenue for interest payments on overdue
30 taxes or the refund of taxes as provided in sections 806

1 and 806.1 of the act of April 9, 1929 (P.L.343, No.176),
2 known as The Fiscal Code.

3 (iii) If a parent who is required to submit a refund
4 to the board under subparagraph (ii) fails to submit the
5 full amount of the required refund to the board within
6 180 days of written demand thereof, the board shall also
7 impose a civil penalty not to exceed the full amount of
8 the annual opportunity scholarship award made to the
9 parents and disqualification from future eligibility for
10 an opportunity scholarship.

11 (iv) If the opportunity scholarship recipient
12 enrolls in another participating nonpublic school within
13 the school year for which the opportunity scholarship was
14 awarded, the board shall pay the parent of the
15 opportunity scholarship recipient the opportunity
16 scholarship award prorated for the remaining portion of
17 the school year.

18 (c) Enrollment requirements.--The following shall apply to a
19 participating nonpublic school which admits an opportunity
20 scholarship recipient:

21 (1) The participating nonpublic school shall not
22 discriminate on any basis that is illegal under Federal or
23 State law.

24 (2) The participating nonpublic school shall comply with
25 section 1521, which prohibits discrimination in enrollment on
26 the basis of race or color.

27 (3) By June 1, 2011, and by April 1 of each year
28 thereafter, a nonpublic school that desires to enroll
29 opportunity scholarship recipients under this subarticle
30 shall certify to the board that it satisfies the definition

1 of "participating nonpublic school" in section 2502-B. Such
2 certification shall be on a form developed by the board.

3 (d) Construction.--Nothing in this subarticle shall be
4 construed to:

5 (1) Prohibit a participating nonpublic school from
6 limiting admission to a particular grade level, a single
7 gender or to areas of concentration of the participating
8 nonpublic school, including, but not limited to, mathematics,
9 science and the arts.

10 (2) Empower the Commonwealth or any of its agencies or
11 officers or political subdivisions to impose any additional
12 requirements on any participating nonpublic school which are
13 not otherwise authorized under the laws of this Commonwealth
14 or to require any participating nonpublic school to enroll
15 any opportunity scholarship recipient if the participating
16 nonpublic school does not offer appropriate programs or is
17 not structured or equipped with the necessary facilities to
18 meet the special needs of the opportunity scholarship
19 recipient or does not offer a particular program requested.

20 Section 2506-B. Amount of opportunity scholarship.

21 (a) Calculation.--

22 (1) The amount of the opportunity scholarship shall
23 equal 100% of the Commonwealth's share of the resident school
24 district's total revenue per average daily membership of the
25 prior school year.

26 (2) (i) For a student enrolling in a participating
27 nonpublic school in kindergarten or grades one through
28 eight, the board shall give priority in awarding
29 opportunity scholarships to students enrolling in
30 participating nonpublic schools that provide the student

1 with additional financial assistance that is either equal
2 to the amount of the opportunity scholarship award or is
3 in an amount that, when combined with the opportunity
4 scholarship award, is equal to the full tuition rate for
5 the participating nonpublic school.

6 (ii) In no case shall the combined amount of the
7 opportunity scholarship award and the additional
8 financial assistance provided by the participating
9 nonpublic school exceed the tuition rate for the
10 participating nonpublic school.

11 (b) Limitation.--No nonresident public school or
12 participating nonpublic school may charge an opportunity
13 scholarship recipient a higher tuition rate than the rate the
14 nonresident public school or participating nonpublic school
15 would have charged to a student who had not received an
16 opportunity scholarship.

17 (c) Excess Scholarship Fund.--

18 (1) The Excess Scholarship Fund is established in the
19 State Treasury and shall be funded by the amount of the
20 opportunity scholarship awarded to an opportunity scholarship
21 recipient under this subarticle in excess of the amount of
22 tuition charged to the opportunity scholarship recipient.

23 (2) The fund shall be administered by the board and
24 applied toward costs of the opportunity scholarship program
25 beginning in the 2012-2013 school year.

26 (d) Annual appropriations.--

27 (1) Opportunity scholarships authorized under this
28 subarticle shall be made from annual appropriations made by
29 the General Assembly to the department for that purpose.

30 (2) In the event that insufficient moneys are

1 appropriated in any fiscal year to provide opportunity
2 scholarships to all eligible opportunity scholarship
3 recipients in the amount authorized, the board shall make pro
4 rata reductions in the amount of the opportunity scholarship
5 provided to each opportunity scholarship recipient.

6 (3) The total amount of opportunity scholarships
7 provided in any fiscal year shall be limited to the amount of
8 money appropriated for that fiscal year.

9 (e) Nontaxable.--Opportunity scholarship funds received by a
10 parent pursuant to this subarticle shall not be considered
11 taxable income for purposes of any local taxing ordinance or for
12 purposes of Article III of the act of March 4, 1971 (P.L.6,
13 No.2), known as the Tax Reform Code of 1971, nor shall such
14 opportunity scholarships constitute financial assistance or
15 appropriations to the participating nonpublic school attended by
16 the opportunity scholarship recipient.

17 (f) Continued eligibility.--

18 (1) Subject to subsection (d), a child enrolled in a
19 nonresident public school or a participating nonpublic school
20 who received an opportunity scholarship under this subarticle
21 in the prior school year shall receive an opportunity
22 scholarship in each school year of enrollment under the
23 opportunity scholarship program, provided that the child
24 remains eligible.

25 (2) (i) If a child who received an opportunity
26 scholarship under this subarticle in the prior school
27 year ceases to qualify as a low-income child, the child
28 shall continue to receive a partial scholarship until
29 completing the eighth grade, provided that the child
30 continues to meet all other eligibility requirements.

1 (ii) In calculating the amount of the partial
2 scholarship, the board shall make a pro rata reduction in
3 the child's opportunity scholarship award based upon the
4 child's household income.

5 (g) Penalties.--Any person who fraudulently submits an
6 opportunity or local scholarship application or who knowingly
7 falsifies material information on an opportunity or local
8 scholarship application shall be subject to the following
9 penalties:

10 (1) Imposition by the board of a civil penalty of up to
11 \$1,000.

12 (2) Prosecution for violation of 18 Pa.C.S. § 4904
13 (relating to unsworn falsification to authorities).

14 (3) Disqualification from future participation in the
15 opportunity scholarship program.

16 Section 2507-B. Guidelines.

17 (a) Requirements.--Within 30 days of the effective date of
18 this section, the board shall establish guidelines that provide
19 the following:

20 (1) Forms to apply for opportunity and local
21 scholarships, including application and approval processes
22 and deadlines for application and notification.

23 (2) Procedures to verify the accuracy of the information
24 provided in an opportunity or local scholarship application.

25 (3) Procedures for school district, school and parent
26 notification of opportunity or local scholarship awards.

27 (4) Procedures for administration of the opportunity and
28 local scholarship programs.

29 (5) Confirmation of school enrollment by opportunity
30 scholarship recipients.

1 (6) For an opportunity scholarship recipient enrolled in
2 a participating nonpublic school, restrictive endorsement of
3 opportunity scholarship award checks to the participating
4 nonpublic school in which the opportunity scholarship
5 recipient is enrolled.

6 (7) Procedures for participating nonpublic schools to
7 pay pro rata refunds of opportunity scholarships to the
8 parents of opportunity scholarship recipients who withdraw
9 from a participating nonpublic school during the school year
10 for which the opportunity scholarship was paid.

11 (8) Development and distribution of public information
12 concerning the opportunity and local scholarship and
13 interdistrict enrollment programs.

14 (9) Such other procedures as are necessary to fully
15 implement the opportunity and local scholarship and
16 interdistrict enrollment programs.

17 (b) Publication.--The guidelines shall be published as a
18 statement of policy in the Pennsylvania Bulletin. The board
19 shall mail a copy of the guidelines to each school district and
20 nonpublic school in this Commonwealth and shall post the
21 guidelines on the department's publicly accessible Internet
22 website.

23 (c) State Board of Education.--Notwithstanding any other
24 provision of law to the contrary, the programs, procedures and
25 guidelines authorized by this subarticle shall not be subject to
26 review, regulation or approval by the State Board of Education.

27 (d) Exemption of guidelines from certain laws.--The initial
28 guidelines established by the board, and any amendments thereto,
29 shall be exempt from the requirements of the following:

30 (1) The act of June 25, 1982 (P.L.633, No.181), known as

1 the Regulatory Review Act.

2 (2) The act of July 31, 1968 (P.L.769, No.240), referred
3 to as the Commonwealth Documents Law.

4 (3) The act of October 15, 1980 (P.L.950, No.164), known
5 as the Commonwealth Attorneys Act.

6 Section 2508-B. Reduction in amount of school aid.

7 Notwithstanding any other provision of law to the contrary,
8 beginning in the second consecutive school year of enrollment in
9 a nonresident public school or a participating nonpublic school
10 by an opportunity scholarship recipient who was enrolled in the
11 recipient's resident school district when the recipient first
12 received an opportunity scholarship under this subarticle, the
13 amount of Commonwealth basic education funding paid by the
14 department to the resident school district shall be reduced by
15 an amount equal to the Commonwealth's share of the school
16 district's total revenue per average daily membership.

17 Section 2509-B. Education Opportunity Board.

18 (a) Establishment.--An independent board to be known as the
19 Education Opportunity Board is established within the
20 department. The board shall consist of three members appointed
21 by the Governor with the advice and consent of a majority of the
22 members elected to the Senate. The Governor may appoint no more
23 than two members to the board who are members of the same
24 political party as the Governor.

25 (b) Terms of members.--Members of the board shall serve a
26 term of four years. Vacancies shall be filled for an unexpired
27 term in the same manner as original appointments. Members shall
28 continue to serve after the expiration of their term until the
29 Governor appoints a replacement who is confirmed by a majority
30 of the members elected to the Senate. All members of the board

1 must be residents of this Commonwealth.

2 (c) Chairperson.--The Governor shall annually select a
3 chairperson from among the membership of the board.

4 (d) Meetings.--Meetings shall be held at the call of the
5 chairperson or upon request in writing of a majority of the
6 board. A majority shall constitute a quorum and a majority of
7 such quorum shall have the authority to act upon any matter
8 properly before the board unless otherwise specified in this
9 subarticle.

10 (e) Compensation prohibited.--Members of the board shall
11 receive no compensation for their services but shall be
12 reimbursed for their actual and necessary expenses incurred in
13 the performance of their official board duties.

14 (f) Executive director and staff.--

15 (1) There shall be an executive director of the board
16 who shall serve as the executive officer and secretary of the
17 board. The board shall employ and fix the reasonable
18 compensation of the executive director.

19 (2) The executive director, with approval of the board,
20 may employ additional professional and clerical personnel as
21 may be necessary to carry out the duties and responsibilities
22 of the board.

23 (3) The department shall provide adequate funding, space
24 and equipment to facilitate the activities of the board.

25 (g) Legal advice and assistance.--The Governor, through his
26 General Counsel, shall provide such legal advice and assistance
27 as the board may require.

28 (h) Powers and duties.--The board shall have the following
29 powers and duties:

30 (1) Establish guidelines for the administration of the

1 opportunity and local scholarship programs as required under
2 section 2507-B.

3 (2) Administer the opportunity and local scholarship
4 application and approval processes.

5 (3) Develop the opportunity and local scholarship
6 application form and any other forms necessary to administer
7 the opportunity and local scholarship programs, including the
8 notice required to be provided by school districts under
9 section 2503-B(d).

10 (4) Review and verify the income and residence of
11 opportunity and local scholarship applicants.

12 (5) Announce the award of opportunity and local
13 scholarships for the following school year under sections
14 2504-B(c) and 2505-B(a).

15 (6) Confirm the enrollment of opportunity scholarship
16 recipients in nonresident public schools and participating
17 nonpublic schools and allocate opportunity scholarship funds
18 to opportunity scholarship recipients.

19 (7) Beginning after the first school year of
20 implementation of the opportunity scholarship program,
21 prepare a report to be submitted to the Governor and the
22 General Assembly by December 1 of each year, made available
23 to the parents of opportunity scholarship recipients and
24 placed on the department's publicly accessible Internet
25 website that includes at least the following information for
26 the prior school year:

27 (i) The total number of opportunity scholarships
28 requested.

29 (ii) The total number and total dollar amount of
30 opportunity scholarships awarded, in total and

1 disaggregated by:

2 (A) Whether the opportunity scholarship
3 recipient attends a nonresident public school or a
4 participating nonpublic school.

5 (B) Grade level of the opportunity scholarship
6 recipient.

7 (C) Whether the opportunity scholarship
8 recipient resides in a school district with at least
9 one persistently lowest achieving school.

10 (iii) The administrative costs of the opportunity
11 scholarship program.

12 (iv) A listing of nonresident public schools to
13 which opportunity scholarship funds were disbursed on
14 behalf of opportunity scholarship recipients and the
15 amount disbursed to each nonresident public school.

16 (v) A listing of participating nonpublic schools in
17 which opportunity scholarship recipients enrolled and the
18 number of opportunity scholarship recipients who enrolled
19 in each participating nonpublic school.

20 (vi) The total number and total dollar amount of
21 local scholarships awarded, disaggregated by the resident
22 school districts that made the local scholarship awards.

23 Section 2510-B. Study.

24 Following the 2014-2015 school year, the board shall conduct
25 a study of the effectiveness of the opportunity scholarship
26 program and shall deliver a written report of its findings,
27 including any recommendations for changes to the program, to the
28 Governor, the chairman and minority chairman of the Education
29 Committee of the Senate and the chairman and minority chairman
30 of the Education Committee of the House of Representatives by

1 December 31, 2015.

2 Section 2511-B. Exclusive jurisdiction of Supreme Court.

3 The Pennsylvania Supreme Court shall have exclusive
4 jurisdiction to hear any challenge or to render a declaratory
5 judgment concerning the constitutionality of this subarticle.

6 The Supreme Court may take such action as it deems appropriate,
7 consistent with the Supreme Court's retaining jurisdiction over
8 such a matter, to find facts or to expedite a final judgment in
9 connection with such a challenge or request for declaratory
10 relief.

11 Section 2512-B. Optional local tuition grant program.

12 A school district may, out of funds received from the
13 Commonwealth for educational purposes, establish a program of
14 tuition grants to provide for the education of resident students
15 who wish to attend a nonresident public school or a
16 participating nonpublic school on a tuition basis. A student who
17 receives a tuition grant under this section shall be included in
18 the average daily membership of the student's resident school
19 district for the purpose of providing basic education funding
20 and special education funding under Article XXV.

21 (c) Educational Improvement Tax Credit

22 Section 2521-B. Definitions.

23 The following words and phrases when used in this subarticle
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Business firm." An entity authorized to do business in this
27 Commonwealth and subject to taxes imposed under Article III, IV,
28 VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,
29 No.2), known as the Tax Reform Code of 1971. The term includes a
30 pass-through entity. For purposes of this subarticle, a business

1 firm shall be included in one of the following groups:

2 (1) Group 1 includes any business firm that is either
3 entering the second year of a two-year commitment or applying
4 for tax credits for a contribution to an educational
5 improvement organization that is also a school district
6 foundation, public school foundation, charter school
7 foundation or cyber charter school foundation.

8 (2) Group 2 includes any business firm that is renewing
9 a two-year commitment that was fulfilled in the most recent
10 fiscal year or is applying for tax credits for a contribution
11 to a prekindergarten scholarship organization in the same
12 amount that it had contributed in the most recent fiscal
13 year.

14 (3) Group 3 includes any business firm other than a
15 business firm in Group 1 or Group 2.

16 "Contribution." A donation of cash, personal property or
17 services, the value of which is the net cost of the donation to
18 the donor or the pro rata hourly wage, including benefits, of
19 the individual performing the services.

20 "Department." The Department of Community and Economic
21 Development of the Commonwealth.

22 "Educational improvement organization." A nonprofit entity
23 which:

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

27 (2) contributes at least 80% of its annual receipts as
28 grants to a public school for innovative educational
29 programs.

30 For purposes of this definition, a nonprofit entity

1 "contributes" its annual cash receipts when it expends or
2 otherwise irrevocably encumbers those funds for expenditure
3 during the then current fiscal year of the nonprofit entity or
4 during the next succeeding fiscal year of the nonprofit entity.
5 A "nonprofit entity" includes a school district foundation,
6 public school foundation, charter school foundation or cyber
7 charter school foundation.

8 "Eligible prekindergarten student." A student, including an
9 eligible student with a disability, who is enrolled in a
10 prekindergarten program and is a member of a household with a
11 maximum annual household income as increased by the applicable
12 income allowance.

13 "Eligible student." A school-age student, including an
14 eligible student with a disability, who is enrolled in a school
15 and is a member of a household with a maximum annual household
16 income as increased by the applicable income allowance.

17 "Eligible student with a disability." A prekindergarten
18 student or a school-age student who meets all of the following:

19 (1) Is either enrolled in a special education school or
20 has otherwise been identified, in accordance with 22 Pa. Code
21 Ch. 14 (relating to special education services and programs),
22 as a "child with a disability," as defined in 34 CFR § 300.8
23 (relating to child with a disability).

24 (2) Needs special education and related services.

25 (3) Is enrolled in a prekindergarten program or in a
26 school.

27 (4) Is a member of a household with a household income
28 of not more than the maximum annual household income.

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

1 children, other unemancipated minor children who are related by
2 blood or marriage or other adults or unemancipated minor
3 children living in the household who are dependent upon the
4 individual.

5 "Household income." All moneys or property received of
6 whatever nature and from whatever source derived. The term does
7 not include the following:

8 (1) Periodic payments for sickness and disability other
9 than regular wages received during a period of sickness or
10 disability.

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

14 (3) Payments commonly recognized as old-age or
15 retirement benefits paid to persons retired from service
16 after reaching a specific age or after a stated period of
17 employment.

18 (4) Payments commonly known as public assistance or
19 unemployment compensation payments by a governmental agency.

20 (5) Payments to reimburse actual expenses.

21 (6) Payments made by employers or labor unions for
22 programs covering hospitalization, sickness, disability or
23 death, supplemental unemployment benefits, strike benefits,
24 Social Security and retirement.

25 (7) Compensation received by United States servicemen
26 serving in a combat zone.

27 "Income allowance."

28 (1) Subject to paragraph (2), the amount of:

29 (i) Before July 1, 2011, \$10,000 for each eligible
30 student, eligible prekindergarten student and dependent

1 member of a household.

2 (ii) After June 30, 2011, \$12,000 for each eligible
3 student, eligible prekindergarten student and dependent
4 member of a household.

5 (2) Beginning July 1, 2012, the Department of Community
6 and Economic Development shall annually adjust the income
7 allowance amounts under paragraph (1) to reflect any upward
8 changes in the Consumer Price Index for All Urban Consumers
9 for the Pennsylvania, New Jersey, Delaware and Maryland area
10 in the preceding 12 months and shall immediately submit the
11 adjusted amounts to the Legislative Reference Bureau for
12 publication as a notice in the Pennsylvania Bulletin.

13 "Innovative educational program." An advanced academic or
14 similar program that is not part of the regular academic program
15 of a public school but that enhances the curriculum or academic
16 program of the public school or provides prekindergarten
17 programs to public school students.

18 "Maximum annual household income."

19 (1) Except as stated in paragraph (2) and subject to
20 paragraph (3), the following:

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

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

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

25 (i) the sum of:

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

27 and

28 (B) the applicable income allowance; by

29 (ii) the applicable support level factor according

30 to the following table:

	<u>Support Level</u>	<u>Support Level Factor</u>
1		
2	<u>1</u>	<u>1.50</u>
3	<u>2</u>	<u>2.993</u>

4 (3) Beginning July 1, 2012, the Department of Community
5 and Economic Development shall annually adjust the income
6 amounts under paragraphs (1) and (2) to reflect any upward
7 changes in the Consumer Price Index for All Urban Consumers
8 for the Pennsylvania, New Jersey, Delaware and Maryland area
9 in the preceding 12 months and shall immediately submit the
10 adjusted amounts to the Legislative Reference Bureau for
11 publication as a notice in the Pennsylvania Bulletin.

12 "Pass-through entity." A partnership as defined in section
13 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the
14 Tax Reform Code of 1971, a single-member limited liability
15 company treated as a disregarded entity for Federal income tax
16 purposes or a Pennsylvania S corporation as defined in section
17 301(n.1) of the Tax Reform Code of 1971.

18 "Prekindergarten program." A program of instruction for
19 three-year-old or four-year-old students that utilizes a
20 curriculum aligned with the curriculum of the school with which
21 it is affiliated and that provides:

22 (1) a minimum of two hours of instructional and
23 developmental activities per day at least 60 days per school
24 year; or

25 (2) a minimum of two hours of instructional and
26 developmental activities per day at least 20 days over the
27 summer recess.

28 "Prekindergarten scholarship organization." A nonprofit
29 entity that:

30 (1) Either is exempt from Federal taxation under section

1 501(c)(3) of the Internal Revenue Code of 1986 (Public Law
2 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate
3 segregated fund by a scholarship organization that has been
4 qualified under section 2522-B.

5 (2) Contributes at least 80% of its annual cash receipts
6 to a prekindergarten scholarship program by expending or
7 otherwise irrevocably encumbering those funds for
8 distribution during the then current fiscal year of the
9 organization or during the next succeeding fiscal year of the
10 organization.

11 "Prekindergarten scholarship program." A program to provide
12 tuition to eligible prekindergarten students to attend a
13 prekindergarten program operated by or in conjunction with a
14 school located in this Commonwealth and that includes an
15 application and review process for the purpose of making awards
16 to eligible prekindergarten students and awards scholarships to
17 eligible prekindergarten students without limiting availability
18 to only students of one school.

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

25 "Scholarship." An award under a scholarship program.

26 "Scholarship organization." A nonprofit entity that:

27 (1) is exempt from Federal taxation under section 501(c)
28 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
29 26 U.S.C. § 1 et seq.); and

30 (2) contributes at least 80% of its annual cash receipts

1 to a scholarship program.
2 For purposes of this definition, a nonprofit entity
3 "contributes" its annual cash receipts to a scholarship program
4 when it expends or otherwise irrevocably encumbers those funds
5 for distribution during the then current fiscal year of the
6 nonprofit entity or during the next succeeding fiscal year of
7 the nonprofit entity.

8 "Scholarship program." A program to provide tuition to
9 eligible students to attend a school located in this
10 Commonwealth. A scholarship program must include an application
11 and review process for the purpose of making awards to eligible
12 students. The award of scholarships to eligible students shall
13 be made without limiting availability to only students of one
14 school.

15 "School." A kindergarten, elementary school or secondary
16 school at which the compulsory attendance requirements of the
17 Commonwealth may be met and that meets the applicable
18 requirements of Title VI of the Civil Rights Act of 1964 (Public
19 Law 88-352, 78 Stat. 241), or a public or nonpublic
20 prekindergarten.

21 "School age." From the earliest admission age to a school's
22 prekindergarten or kindergarten program or, when no
23 prekindergarten or kindergarten program is provided, the
24 school's earliest admission age for beginners, until the end of
25 the school year the student attains 21 years of age or
26 graduation from high school, whichever occurs first.

27 "Special education school." A school or program within a
28 school that is designated specifically and exclusively for
29 students with any of the disabilities listed in 34 CFR § 300.8
30 (relating to child with a disability) and meets one of the

1 following:

2 (1) is licensed under the act of January 28, 1988
3 (P.L.24, No.11), known as the Private Academic Schools Act;

4 (2) is accredited by an accrediting association approved
5 by the State Board of Education;

6 (3) is a school for the blind or deaf receiving
7 Commonwealth appropriations; or

8 (4) is operated by or under the authority of a bona fide
9 religious institution or by the Commonwealth or any political
10 subdivision thereof.

11 "Support level." The level of support needed by an eligible
12 student with a disability, as stated in the following matrix:

13 (1) Support level 1. The student is not enrolled in a
14 special education school.

15 (2) Support level 2. The student is enrolled in a
16 special education school.

17 "Tax credit." The educational improvement tax credit
18 established under this subarticle.

19 Section 2522-B. Qualification and application.

20 (a) Establishment.--In accordance with section 14 of Article
21 III of the Constitution of Pennsylvania, an educational
22 improvement tax credit program is established to enhance the
23 educational opportunities available to all students in this
24 Commonwealth.

25 (b) Information.--In order to qualify under this subarticle,
26 a scholarship organization, a prekindergarten scholarship
27 organization or an educational improvement organization must
28 submit information to the department that enables the department
29 to confirm that the organization is exempt from taxation under
30 section 501(c)(3) of the Internal Revenue Code of 1986 (Public

1 Law 99-514, 26 U.S.C. § 1 et seq.).

2 (c) Scholarship organizations and prekindergarten
3 scholarship organizations.--A scholarship organization or
4 prekindergarten scholarship organization must certify to the
5 department that the organization is eligible to participate in
6 the program established under this subarticle and must agree to
7 annually report the following information to the department by
8 September 1 of each year:

9 (1) (i) The number of scholarships awarded during the
10 immediately preceding school year to eligible
11 prekindergarten students.

12 (ii) The total and average amounts of scholarships
13 awarded during the immediately preceding school year to
14 eligible prekindergarten students.

15 (iii) The number of scholarships awarded during the
16 immediately preceding school year to eligible students in
17 grades kindergarten through eight.

18 (iv) The total and average amounts of scholarships
19 awarded during the immediately preceding school year to
20 eligible students in grades kindergarten through eight.

21 (v) The number of scholarships awarded during the
22 immediately preceding school year to eligible students in
23 grades 9 through 12.

24 (vi) The total and average amounts of scholarships
25 awarded during the immediately preceding school year to
26 eligible students in grades 9 through 12.

27 (vii) Where the scholarship organization or
28 prekindergarten scholarship organization collects
29 information on a county-by-county basis, the total number
30 and the total dollar amount of scholarships awarded

1 during the immediately preceding school year to residents
2 of each county in which the scholarship organization or
3 prekindergarten scholarship organization awarded
4 scholarships.

5 (2) The information required under paragraph (1) shall
6 be submitted on a form provided by the department. No later
7 than May 1 of each year, the department shall annually
8 distribute such sample forms, together with the forms on
9 which the reports are required to be made, to each listed
10 scholarship organization and prekindergarten scholarship
11 organization.

12 (3) The department may not require any other information
13 to be provided by scholarship organizations or
14 prekindergarten scholarship organizations, except as
15 expressly authorized in this subarticle.

16 (d) Educational improvement organization.--

17 (1) An application submitted by an educational
18 improvement organization must describe its proposed
19 innovative educational program or programs in a form
20 prescribed by the department. In prescribing the form, the
21 department shall consult with the Department of Education as
22 necessary. The department shall review and approve or
23 disapprove the application. In order to be eligible to
24 participate in the program established under this subarticle,
25 an educational improvement organization must agree to
26 annually report the following information to the department
27 by September 1 of each year:

28 (i) The name of the innovative educational program
29 or programs and the total amount of the grant or grants
30 made to those programs during the immediately preceding

1 school year.

2 (ii) A description of how each grant was utilized
3 during the immediately preceding school year and a
4 description of any demonstrated or expected innovative
5 educational improvements.

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

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

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

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

25 (e) Notification.--The department shall notify the
26 scholarship organization, prekindergarten scholarship
27 organization or educational improvement organization that the
28 organization meets the requirements of this subarticle for that
29 fiscal year no later than 60 days after the organization has
30 submitted the information required under this section.

1 (f) Publication.--The department shall annually publish a
2 list of each scholarship organization, prekindergarten
3 scholarship organization or educational improvement organization
4 qualified under this section in the Pennsylvania Bulletin. The
5 list shall also be posted and updated as necessary on the
6 publicly accessible Internet website of the department.

7 Section 2523-B. Application.

8 (a) Scholarship organization or prekindergarten scholarship
9 organization.--A business firm shall apply to the department for
10 a tax credit. A business firm shall receive a tax credit if the
11 scholarship organization or prekindergarten scholarship
12 organization that receives the contribution appears on the list
13 established under section 2522-B(f).

14 (b) Educational improvement organization.--A business firm
15 must apply to the department for a tax credit. A business firm
16 shall receive a tax credit if the department has approved the
17 program provided by the educational improvement organization
18 that receives the contribution.

19 (c) Contributions.--A contribution by a business firm to a
20 scholarship organization, prekindergarten scholarship
21 organization or educational improvement organization shall be
22 made no later than 60 days following the approval of an
23 application under subsection (a) or (b).

24 Section 2524-B. Tax credit.

25 (a) Scholarship or educational improvement organizations.--
26 In accordance with section 2525-B(a), the Department of Revenue
27 shall grant a tax credit against any tax due under Article III,
28 IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,
29 No.2), known as the Tax Reform Code of 1971, to a business firm
30 providing proof of a contribution to a scholarship organization

1 or educational improvement organization in the taxable year in
2 which the contribution is made which shall not exceed 75% of the
3 total amount contributed during the taxable year by the business
4 firm. The tax credit shall not exceed \$300,000 annually per
5 business firm for contributions made to scholarship
6 organizations or educational improvement organizations.

7 (b) Additional amount.--The Department of Revenue shall
8 grant a tax credit of up to 90% of the total amount contributed
9 during the taxable year if the business firm provides a written
10 commitment to provide the scholarship organization or
11 educational improvement organization with the same amount of
12 contribution for two consecutive tax years. The business firm
13 must provide the written commitment under this subsection to the
14 department at the time of application.

15 (c) Prekindergarten scholarship organizations.--In
16 accordance with section 2525-B(a), the Department of Revenue
17 shall grant a tax credit against any tax due under Article III,
18 IV, VI, VII, VIII, IX or XV of the Tax Reform Code of 1971 to a
19 business firm providing proof of a contribution to a
20 prekindergarten scholarship organization in the taxable year in
21 which the contribution is made which shall be equal to 100% of
22 the first \$10,000 contributed during the taxable year by the
23 business firm, and which shall not exceed 90% of the remaining
24 amount contributed during the taxable year by the business firm.
25 The tax credit shall not exceed \$150,000 annually per business
26 firm for contributions made to prekindergarten scholarship
27 organizations.

28 (d) Combination of tax credits.--A business firm may receive
29 tax credits from the Department of Revenue in any tax year for
30 any combination of contributions under subsection (a), (b) or

1 (c). In no case may a business firm receive tax credits in any
2 tax year in excess of \$300,000 for contributions under
3 subsections (a) and (b). In no case shall a business firm
4 receive tax credits in any tax year in excess of \$150,000 for
5 contributions under subsection (c).

6 (e) Pass-through entity.--

7 (1) If a pass-through entity does not intend to use all
8 approved tax credits under this section, it may elect in
9 writing to transfer all or a portion of the tax credit to
10 shareholders, members or partners in proportion to the share
11 of the entity's distributive income to which the shareholder,
12 member or partner is entitled for use in the taxable year in
13 which the contribution is made or in the taxable year
14 immediately following the year in which the contribution is
15 made. The election shall designate the year in which the
16 transferred tax credits are to be used and shall be made
17 according to procedures established by the Department of
18 Revenue.

19 (2) A pass-through entity and a shareholder, member or
20 partner of a pass-through entity shall not claim the tax
21 credit under this section for the same contribution.

22 (3) The shareholder, member or partner may not carry
23 forward, carry back, obtain a refund of or sell or assign the
24 tax credit.

25 (4) The shareholder, member or partner may claim the
26 credit on a joint return, but the tax credit may not exceed
27 the separate income of that shareholder, member or partner.

28 (f) Restriction on applicability of credits.--No tax credits
29 shall be applied against any tax withheld by an employer from an
30 employee under Article III of the Tax Reform Code of 1971.

1 (g) Time of application for credits.--

2 (1) The department may accept advance applications
3 beginning on May 15 from business firms in Group 1 and Group
4 2 for tax credits available during a fiscal year that is to
5 begin on July 1.

6 (2) If, on July 1 of a fiscal year, applications for tax
7 credits available during the fiscal year exceed the total
8 aggregate amount of tax credits available for the fiscal
9 year, the department shall approve applications for tax
10 credits on the following basis, subject to the provisions of
11 section 2523-B:

12 (i) Group 1 firms whose advance applications were
13 received by July 1 shall be accorded first priority in
14 the approval of tax credit applications. If tax credits
15 applied for by Group 1 firms exceed the total aggregate
16 amount of tax credits available for the program under
17 section 2525-B, the department shall approve on a pro
18 rata basis the applications of all Group 1 firms that
19 applied by July 1, and the applications of Group 2 and
20 Group 3 firms shall be denied. Approval of a reduced tax
21 credit under this subparagraph shall not disqualify a
22 Group 1 firm from receiving a 90% tax credit under
23 subsection (b) even if the amount of tax credit approved
24 would require the Group 1 firm to make a lower
25 scholarship contribution in the second year of a two-year
26 commitment.

27 (ii) If tax credits remain available after credits
28 have been awarded under subparagraph (i), Group 2 firms
29 whose applications were received by July 1 shall be
30 accorded priority in the approval of applications for the

1 remaining tax credits. If the sum of the tax credits
2 approved under subparagraph (i) and the credits applied
3 for by Group 2 firms exceeds the total aggregate amount
4 of tax credits available for the program under section
5 2525-B, the department shall approve on a pro rata basis
6 the applications for the remaining tax credits submitted
7 by all Group 2 firms that applied by July 1, and the
8 applications of Group 3 firms shall be denied.

9 (iii) If tax credits remain available after credits
10 have been awarded under subparagraphs (i) and (ii),
11 applications of Group 3 firms shall be approved on a
12 daily basis, beginning on July 1. If, on any day, the sum
13 of the tax credits approved under subparagraphs (i) and
14 (ii) and the tax credits applied for on that day by Group
15 3 firms exceeds the total aggregate amount of tax credits
16 available for the program under section 2525-B, the
17 department shall approve on a pro rata basis the
18 applications received on that day.

19 Section 2525-B. Limitations.

20 (a) Amount.--

21 (1) For the fiscal years 2011-2012, 2012-2013 and
22 2013-2014, the total aggregate amount of all tax credits
23 approved shall not exceed \$100,000,000 in a fiscal year. No
24 less than 75% of the total aggregate amount of all tax
25 credits approved shall be used to provide tax credits for
26 contributions from business firms to scholarship
27 organizations. No less than 25% of the total aggregate amount
28 of all tax credits approved shall be used to provide tax
29 credits for contributions from business firms to educational
30 improvement organizations.

1 (2) (i) Subject to adjustment under subparagraph (ii),
2 in the fiscal year 2014-2015 and each fiscal year
3 thereafter, the total aggregate amount of all tax credits
4 available shall equal the total aggregate amount of all
5 tax credits available in the prior fiscal year.

6 (ii) Beginning in the fiscal year 2014-2015, in any
7 fiscal year in which the total aggregate amount of all
8 tax credits approved for the prior fiscal year is equal
9 to or greater than 90% of the total aggregate amount of
10 all tax credits available for the prior fiscal year, the
11 total aggregate amount of all tax credits available shall
12 increase by 5%. The department shall publish on its
13 Internet website the total aggregate amount of all tax
14 credits available when the amount is increased under this
15 paragraph.

16 (3) For the fiscal years 2011-2012, 2012-2013 and
17 2013-2014, the total aggregate amount of all tax credits
18 approved for contributions from business firms to
19 prekindergarten scholarship programs shall not exceed
20 \$8,000,000 in a fiscal year.

21 (4) (i) Subject to adjustment in subparagraph (ii), in
22 the fiscal year 2014-2015 and each fiscal year
23 thereafter, the total aggregate amount of all tax credits
24 available to prekindergarten scholarship programs shall
25 equal the total aggregate amount of all tax credits
26 available to prekindergarten scholarship programs in the
27 prior fiscal year.

28 (ii) Beginning in the fiscal year 2014-2015, in any
29 fiscal year in which the total aggregate amount of all
30 tax credits available is increased under paragraph (2),

1 the total aggregate amount of all tax credits available
2 for prekindergarten scholarship programs shall increase
3 by 5%. The department shall publish on its Internet
4 website the total aggregate amount of all tax credits
5 available for prekindergarten scholarship programs when
6 the amount is increased under this paragraph.

7 (b) Activities.--No tax credit shall be approved for
8 activities that are a part of a business firm's normal course of
9 business.

10 (c) Tax liability.--

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

14 (2) In the case of a credit granted to a pass-through
15 entity which elects to transfer the credit according to
16 section 2524-B(e), a tax credit granted for any one taxable
17 year and transferred to a shareholder, member or partner may
18 not exceed the tax liability of the shareholder, member or
19 partner.

20 (d) Use.--A tax credit not used by the applicant in the
21 taxable year the contribution was made or in the year designated
22 by the shareholder, member or partner to whom the credit was
23 transferred under section 2524-B(e) may not be carried forward
24 or carried back and is not refundable or transferable.

25 (e) Nontaxable income.--A scholarship received by an
26 eligible student or eligible prekindergarten student shall not
27 be considered to be taxable income for the purposes of Article
28 III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
29 Reform Code of 1971.

30 Section 2526-B. Lists.

1 The Department of Revenue shall provide to the General
2 Assembly, by June 30 of each year, a list of all scholarship
3 organizations, prekindergarten scholarship organizations and
4 educational improvement organizations that receive contributions
5 from business firms granted a tax credit.

6 Section 2527-B. Guidelines.

7 The department, in consultation with the Department of
8 Education, shall develop guidelines to determine the eligibility
9 of an innovative educational program.

10 Section 2. Repeals are as follows:

11 (1) The General Assembly declares that the repeal under
12 paragraph (2) is necessary to effectuate the addition of
13 Article XXV-B of the act.

14 (2) Article XVII-F of the act of March 4, 1971 (P.L.6,
15 No.2), known as the Tax Reform Code of 1971, is repealed.

16 Section 3. The provisions of Article XXV-B of the act are
17 severable. If any provision of that article or its application
18 to any person or circumstance is held invalid, the invalidity
19 shall not affect other provisions or applications of that
20 article which can be given effect without the invalid provision
21 or application.

22 Section 4. This act shall take effect in 60 days.