

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

SENATOR PICCOLA, EDUCATION, AS AMENDED, MARCH 1, 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:

ARTICLE XXV-BOPPORTUNITY SCHOLARSHIPS ANDEDUCATIONAL IMPROVEMENT TAX CREDIT(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 "FUND." THE EXCESS SCHOLARSHIP FUND ESTABLISHED IN THIS ←
9 SUBARTICLE.

10 "Household income." Income as used for the purposes of
11 determining eligibility for a free or reduced-price lunch under
12 the Richard B. Russell National School Lunch Act (60 Stat. 230,
13 1751 et seq.).

14 "KINDERGARTEN." A ONE-YEAR FORMAL KINDERGARTEN PROGRAM THAT ←
15 OCCURS DURING THE SCHOOL YEAR IMMEDIATELY PRIOR TO FIRST GRADE.

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

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

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

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

27 "Nonpublic school." A school, other than a public school,
28 located within this Commonwealth where a Commonwealth resident
29 may legally fulfill the compulsory school attendance
30 requirements of this act and that meets the applicable

1 requirements of Title VI of the Civil Rights Act of 1964 (Public
2 law 88-352, 78 Stat. 241). The term also includes a full-time or
3 part-time kindergarten program operated by a nonpublic school.

4 "Nonresident public school." A public school outside a
5 child's resident school district.

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

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

10 "Opportunity scholarship." An opportunity scholarship
11 awarded to a low-income child under this subarticle to pay
12 tuition for the child to attend a nonresident public school or a
13 participating nonpublic school.

14 "Opportunity scholarship program" or "program." The
15 opportunity scholarship program established under this
16 subarticle.

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

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

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

26 (1) THE NONPUBLIC SCHOOL IS A NONPROFIT ENTITY THAT IS ←
27 EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C) (3) OF THE
28 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
29 1 ET SEQ.);

30 ~~(1)~~ (2) the nonpublic school does not discriminate in ←

1 its admission policies or practices for opportunity
2 scholarship applicants on the basis of measures of
3 achievement or aptitude or status as a handicapped person,
4 provided, however, that an applicant may be required to meet
5 established eligibility criteria for participation in magnet
6 schools or in schools with specialized academic missions; and
7 ~~(2)~~ (3) the nonpublic school is in full compliance with ←
8 all Federal and State laws.

9 "Persistently lowest achieving school." A public elementary
10 or secondary school within this Commonwealth achieving within
11 the lowest measured group of 5% on the most recent assessment
12 for which data is posted on the Department of Education's
13 publicly accessible Internet website. The term does not include
14 a charter school, cyber charter school or, area vocational- ←
15 technical school, A SCHOOL THAT DOES NOT DRAW ITS STUDENT BODY ←
16 FROM A PARTICULAR ATTENDANCE BOUNDARY OR A SCHOOL WITH A
17 SPECIALIZED ACADEMIC PROGRAM THAT HAS SPECIFIC ADMISSIONS
18 CRITERIA.

19 "Resident school district." The school district in which a
20 school-age child resides.

21 "School-age child." A child enrolling in kindergarten or in
22 grades 1 through 12.

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

28 "Total revenue per average daily membership." A school
29 district's total revenue per average daily membership MINUS THE ←
30 AMOUNT OF REIMBURSEMENT TO THE SCHOOL DISTRICT FOR PUPIL

1 TRANSPORTATION UNDER SECTION 2541.

2 Section 2503-B. Opportunity scholarship program.

3 (a) Establishment.--Beginning with the 2011-2012 school
4 year, the opportunity scholarship program shall be established
5 to provide scholarships to help low-income children pay tuition
6 to attend a nonresident public school or a participating
7 nonpublic school.

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

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

13 (i) ~~Attended~~ EITHER ATTENDED a persistently lowest ←
14 achieving school during the 2010-2011 school year OR WILL ←
15 BE A KINDERGARTEN STUDENT DURING THE 2011-2012 SCHOOL
16 YEAR.

17 (ii) Will reside within the attendance boundary of a
18 persistently lowest achieving school during the 2011-2012
19 school year.

20 (2) During the 2012-2013 school year, the opportunity
21 scholarship program shall be available to low-income children
22 who qualified for the program for the 2011-2012 school year
23 under paragraph (1) and to low-income children who ~~satisfy~~ ←
24 both of the following:

25 ~~(i) Attended a nonpublic school during the 2010-2011~~
26 ~~school year.~~

27 ~~(ii) Will~~ WILL reside within the attendance boundary ←
28 of a persistently lowest achieving school during the
29 2012-2013 school year.

30 (3) During the 2013-2014 school year and each school

1 year thereafter, the opportunity scholarship program shall be
2 available to all low-income children residing in this
3 Commonwealth.

4 (c) List of persistently lowest achieving schools to be
5 published.--By April 1, 2011, and by February 1 of each year
6 thereafter, the department shall publish on the department's
7 publicly accessible Internet website and in the Pennsylvania
8 Bulletin a list of persistently lowest achieving schools that
9 will be in effect for purposes of this subarticle for the
10 following school year. The department shall publish the list
11 based upon the most recent school year for which data is
12 available.

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

14 (1) By May 1, 2011, and by March 1 of each year
15 thereafter, each school district in this Commonwealth shall
16 provide all residents of the school district with school-age
17 children with notice of the following:

18 (i) A description of the opportunity scholarship
19 program.

20 (ii) Instructions for applying for an opportunity
21 scholarship.

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

25 (iv) A statement as to whether any schools in the
26 school district have been designated by the department as
27 persistently lowest achieving schools.

28 (v) Notice that a parent must contact directly the
29 nonresident public school or participating nonpublic
30 school in which the parent's child seeks to enroll for

1 application instructions.

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

7 Section 2504-B. Opportunity scholarship to attend a nonresident
8 public school.

9 (a) Eligibility.--A low-income child who is eligible to
10 participate in the opportunity scholarship program may receive
11 an opportunity scholarship to pay tuition to attend a
12 nonresident public school that accepts a child's enrollment
13 application under subsection (d).

14 (b) Local scholarship.--A school district may elect to
15 provide a local scholarship to low-income children residing
16 within the school district to pay tuition to attend a
17 nonresident public school that accepts a child's enrollment
18 application under subsection (d). A school district that elects
19 to provide a local scholarship shall:

20 (1) By May 1, 2011, and by March 1 of each year
21 thereafter, notify all residents of the school district with
22 school-age children of the availability and amount of the
23 local scholarship for the following school year and the
24 process by which a low-income child may apply to the board to
25 receive the opportunity and local scholarships. The school
26 district shall provide the notice by mail to all residents of
27 the school district with school-age children and by notice
28 posted on the school district's publicly accessible Internet
29 website. The notice may be incorporated into the notice the
30 school district is required to provide under section 2503-

1 B(d).

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

5 (3) When directed to do so by the board, pay to the
6 board the local scholarship for each low-income child
7 residing in the district who the board determines to be
8 eligible for the local scholarship and who the board confirms
9 has enrolled in a nonresident public school.

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

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

13 (1) By June 1, 2011, and by April 1 of each year
14 thereafter, pursuant to guidelines developed by the board
15 under section 2509-B, the parent of a low-income child may
16 apply to the board:

17 (i) For an opportunity scholarship for the following
18 school year.

19 (ii) For a local scholarship for the following
20 school year, where the low-income child's resident school
21 district has elected to provide a local scholarship under
22 subsection (b).

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

27 (d) Application for enrollment in a nonresident public
28 school.--

29 (1) By July 15, 2011, and by June 1 of each year
30 thereafter, the parent of a low-income child who has been

1 awarded a scholarship under subsection (c) may apply to one
2 or more nonresident public schools for enrollment of the
3 child for the following school year. The application shall be
4 on a form provided by the nonresident school district.

5 (2) (i) The nonresident school district shall provide
6 written notice to the parent and the board by August 1,
7 2011, and by July 1 of each year thereafter, as to
8 whether the child will be offered enrollment in the
9 requested nonresident public school for the following
10 school year.

11 (ii) Within ten days of receipt of the notice, the
12 parent must provide written notice to the board, the
13 resident school district and the nonresident school
14 district whether the offer of enrollment will be
15 accepted.

16 (iii) If the child is not enrolled in a nonresident
17 public school, the child's resident school district shall
18 determine the public school within the resident school
19 district to which the child will be assigned.

20 (3) Each school district shall develop guidelines
21 setting forth the terms and conditions under which it will
22 enroll nonresident students receiving opportunity and local
23 scholarships and shall develop an enrollment application form
24 and process. If a school district determines to enroll
25 nonresident students receiving opportunity and local
26 scholarships, the school district must enroll such
27 nonresident students on a first-applied-first-accepted basis,
28 provided that:

29 (i) the nonresident student's enrollment in the
30 nonresident school district would not place either the

1 nonresident school district or the resident school
2 district in violation of a valid and binding
3 desegregation order;

4 (ii) the nonresident student has not been expelled
5 nor is the nonresident student in the process of being
6 expelled under section 1317.2 or 1318 and applicable
7 regulations of the State Board of Education; or ←

8 (III) THE NONRESIDENT STUDENT HAS NOT BEEN RECRUITED ←
9 BY THE SCHOOL DISTRICT OR ITS REPRESENTATIVES FOR
10 ATHLETIC PURPOSES; OR

11 ~~(iii)~~ (IV) the nonresident student meets the ←
12 established eligibility criteria for participation in a
13 magnet school or in a public school with a specialized
14 academic mission.

15 (4) A nonresident school district may give priority in
16 enrollment to a nonresident student who has been awarded a
17 local scholarship.

18 (e) Commonwealth payments.--The Commonwealth shall make
19 payment pursuant to the schedule contained in section 2517 to
20 each school district or area vocational-technical school that
21 accepts a nonresident student under the provisions of this
22 subarticle subject to the following terms and conditions:

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

27 (2) (i) For a nonresident student who is an opportunity
28 scholarship recipient and defined as a "student with a
29 disability," services provided to the opportunity
30 scholarship recipient shall be charged against the

1 Commonwealth's special education subsidy to the resident
2 school district, provided that the resident school
3 district shall not be charged more for services provided
4 to the opportunity scholarship recipient by the
5 nonresident school district than the difference between
6 the current year cost of the services had the opportunity
7 scholarship recipient remained in the resident school
8 district and the sum of the opportunity scholarship, the
9 local scholarship and the per pupil special education
10 funding following the opportunity scholarship recipient.

11 (ii) The resident school district shall provide the
12 board with documentation of the prior year's cost of
13 services provided to the opportunity scholarship
14 recipient and an estimate of the cost of providing those
15 services in the current year had the opportunity
16 scholarship recipient remained in the resident school
17 district. Any cost not covered by this funding shall be
18 borne by the nonresident school district enrolling the
19 opportunity scholarship recipient.

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

23 (f) Limitation.--The tuition charged by a nonresident school
24 district to an opportunity scholarship recipient under this
25 subarticle shall not exceed the sum of the opportunity
26 scholarship and the local scholarship awarded to the opportunity
27 scholarship recipient.

28 (g) Transportation.--Notwithstanding any provisions of

29 (1) NOTWITHSTANDING ANY PROVISIONS OF section 1361 to
30 the contrary, a school district that provides its resident



1 public school pupils with transportation to and from the
2 resident public schools or to and from any points within or
3 without this Commonwealth in order to provide field trips
4 under section 1361 shall provide a student who resides within
5 the school district but regularly attends a nonresident
6 public school, including a charter school, that is located
7 not more than ten miles from the student's resident school
8 district by the nearest public highway, with transportation
9 to and from such nonresident public school or to and from any
10 points within or without this Commonwealth in order to
11 provide field trips under section 1361.

12 (2) TRANSPORTATION OF A STUDENT UNDER THIS SUBSECTION ←
13 SHALL BE SUBJECT TO REIMBURSEMENT UNDER SECTION 2541.

14 Section 2505-B. Opportunity scholarships to attend a
15 participating nonpublic school.

16 (a) Eligibility.--The parent of a low-income child who is
17 eligible to receive an opportunity scholarship under section
18 2503-B and desires to apply for an opportunity scholarship to
19 attend a participating nonpublic school must:

20 (1) By June 1, 2011, and by April 1 of each year
21 thereafter, apply to the board for an opportunity scholarship
22 for the following school year pursuant to guidelines
23 developed by the board under section 2509-B. By July 1, 2011,
24 and by May 1 of each year thereafter, the board shall notify
25 parents whether the opportunity scholarship will be awarded
26 for the following school year.

27 (2) Apply for enrollment directly to the participating
28 nonpublic school pursuant to application procedures developed
29 by the participating nonpublic school. By August 1, 2011, and
30 by July 1 of each year thereafter, a participating nonpublic

1 school shall provide written confirmation to the board of
2 each opportunity scholarship recipient whose application for
3 enrollment has been accepted for the following school year.

4 (b) Payment of opportunity scholarship awards.--The
5 Commonwealth shall provide payment of an opportunity scholarship
6 to the parents of each opportunity scholarship recipient who is
7 enrolled in a participating nonpublic school under the
8 provisions of this subarticle subject to the following terms and
9 conditions:

10 (1) Opportunity scholarships shall be awarded only for
11 the payment of costs of tuition at a participating nonpublic
12 school within this Commonwealth. Opportunity scholarships
13 shall not be awarded for enrollment in a home education
14 program provided under section 1327.1.

15 (2) Opportunity scholarships shall be paid to the
16 parents of an opportunity scholarship recipient upon the
17 board's receipt of written confirmation of enrollment from
18 the participating nonpublic school selected by the recipient.
19 The opportunity scholarship award shall be paid by check
20 which may be endorsed by the parents only for payment of
21 tuition at the participating nonpublic school at which the
22 opportunity scholarship recipient's enrollment has been
23 confirmed.

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

28 (i) The participating nonpublic school shall, within
29 15 days of the opportunity scholarship recipient's
30 withdrawal from the participating nonpublic school:

1 (A) Provide the board with written notice of the
2 opportunity scholarship recipient's withdrawal from
3 the participating nonpublic school.

4 (B) Return to the opportunity scholarship
5 recipient's parent the full amount of the opportunity
6 scholarship payment reduced on a pro rata basis by
7 the tuition for the portion of the school year in
8 which the opportunity scholarship recipient was
9 enrolled. The amount returned to the parent under
10 this paragraph shall be paid by check which may be
11 endorsed by the parents only for repayment to the
12 board of the refunded opportunity scholarship award.

13 (ii) If the parents of the opportunity scholarship
14 recipient fail to submit to the board the full amount of
15 the opportunity scholarship returned to the parents under
16 subparagraph (i) within 15 days of receipt of
17 notification from the board that such payment is due, the
18 board shall impose interest on the unpaid amount,
19 calculated from the due date at the rate determined by
20 the Secretary of Revenue for interest payments on overdue
21 taxes or the refund of taxes as provided in sections 806
22 and 806.1 of the act of April 9, 1929 (P.L.343, No.176),
23 known as The Fiscal Code.

24 (iii) If a parent who is required to submit a refund
25 to the board under subparagraph (ii) fails to submit the
26 full amount of the required refund to the board within
27 180 days of written demand thereof, the board shall also
28 impose a civil penalty not to exceed the full amount of
29 the annual opportunity scholarship award made to the
30 parents and disqualification from future eligibility for

1 an opportunity scholarship.

2 (iv) If the opportunity scholarship recipient
3 enrolls in another participating nonpublic school within
4 the school year for which the opportunity scholarship was
5 awarded, the board shall pay the parent of the
6 opportunity scholarship recipient the opportunity
7 scholarship award prorated for the remaining portion of
8 the school year.

9 (c) Enrollment requirements.--The following shall apply to a
10 participating nonpublic school which admits an opportunity
11 scholarship recipient:

12 (1) The participating nonpublic school shall not
13 discriminate on any basis that is illegal under Federal or
14 State law.

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

18 (3) THE PARTICIPATING NONPUBLIC SCHOOL MAY NOT RECRUIT ←
19 ANY PUBLIC SCHOOL STUDENT TO ENROLL FOR ATHLETIC PURPOSES.

20 ~~(3)~~ (4) By June 1, 2011, and by April 1 of each year ←
21 thereafter, a nonpublic school that desires to enroll
22 opportunity scholarship recipients under this subarticle
23 shall certify to the board that it satisfies the definition
24 of "participating nonpublic school" in section 2502-B. Such
25 certification shall be on a form developed by the board.

26 (D) POLICIES.--UPON REQUEST, A PARTICIPATING NONPUBLIC ←
27 SCHOOL SHALL MAKE AVAILABLE FOR REVIEW BY THE PARENTS OF ANY
28 OPPORTUNITY SCHOLARSHIP RECIPIENT SEEKING ENROLLMENT, ITS
29 WRITTEN SCHOOL POLICIES AND PROCEDURES RELATED TO TUITION
30 CHARGES, ADMISSIONS, ACADEMIC OFFERINGS AND REQUIREMENTS,

1 DISCIPLINE, RELIGIOUS INSTRUCTION, PARENT INVOLVEMENT AND
2 EXTRACURRICULAR ACTIVITIES.

3 ~~(d)~~ (E) 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~~

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

~~(ii) In no case shall the combined amount of the~~

~~(2) IN NO CASE SHALL THE COMBINED AMOUNT OF THE opportunity scholarship award and the ANY additional financial assistance provided by the participating nonpublic school exceed the tuition rate for the participating nonpublic school.~~

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

~~(c) Excess Scholarship Fund.--~~

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

~~(2) The fund shall be administered by the board and applied toward costs of the opportunity scholarship program beginning in the 2012-2013 school year AND EACH SCHOOL YEAR THEREAFTER.~~

~~(d) Annual appropriations.--~~

~~(1) Opportunity scholarships authorized under this subarticle shall be made from annual appropriations made by~~

1 the General Assembly to the department AND MONEYS AVAILABLE ←
2 IN THE FUND for that purpose.

3 (2) In the event that insufficient moneys are
4 appropriated AVAILABLE in any fiscal year to provide ←
5 opportunity scholarships to all eligible opportunity
6 scholarship recipients in the amount authorized, the board
7 shall make pro rata reductions in the amount of the
8 opportunity scholarship provided to each opportunity
9 scholarship recipient.

10 (3) The total amount of opportunity scholarships
11 provided in any fiscal year shall be limited to the amount of
12 money appropriated for that fiscal year AND MONEYS IN THE ←
13 FUND.

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

22 (f) Continued eligibility.--

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

30 (2) (i) If a child who received an opportunity

1 scholarship under this subarticle in the prior school
2 year ceases to qualify as a low-income child, the child
3 shall continue to receive a partial scholarship until
4 completing the eighth grade, provided that the child
5 continues to meet all other eligibility requirements.

6 (ii) In calculating the amount of the partial
7 scholarship, the board shall make a pro rata reduction in
8 the child's opportunity scholarship award based upon the
9 child's household income.

10 (g) Penalties.--Any person who fraudulently submits an
11 opportunity or local scholarship application or who knowingly
12 falsifies material information on an opportunity or local
13 scholarship application shall be subject to the following
14 penalties:

15 (1) Imposition by the board of a civil penalty of up to
16 \$1,000.

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

19 (3) Disqualification from future participation in the
20 opportunity scholarship program.

21 Section 2507-B. Guidelines.

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

25 (1) Forms to apply for opportunity and local
26 scholarships, including application and approval processes
27 and deadlines for application and notification.

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

30 (3) Procedures for school district, school and parent

1 notification of opportunity or local scholarship awards.

2 (4) Procedures for administration of the opportunity and
3 local scholarship programs.

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

6 (6) For an opportunity scholarship recipient enrolled in
7 a participating nonpublic school, restrictive endorsement of
8 opportunity scholarship award checks to the participating
9 nonpublic school in which the opportunity scholarship
10 recipient is enrolled.

11 (7) Procedures for participating nonpublic schools to
12 pay pro rata refunds of opportunity scholarships to the
13 parents of opportunity scholarship recipients who withdraw
14 from a participating nonpublic school during the school year
15 for which the opportunity scholarship was paid.

16 (8) Development and distribution of public information
17 concerning the opportunity and local scholarship and
18 interdistrict enrollment programs.

19 (9) Such other procedures as are necessary to fully
20 implement the opportunity and local scholarship and
21 interdistrict enrollment programs.

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

28 (c) State Board of Education.--Notwithstanding any other
29 provision of law to the contrary, the programs, procedures and
30 guidelines authorized by this subarticle shall not be subject to

1 review, regulation or approval by the State Board of Education.

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

5 (1) The act of June 25, 1982 (P.L.633, No.181), known as
6 the Regulatory Review Act.

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

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

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

12 Notwithstanding any other provision of law to the contrary,
13 beginning in the second consecutive school year of enrollment in
14 a nonresident public school or a participating nonpublic school
15 by an opportunity scholarship recipient who was enrolled in the
16 recipient's resident school district OR IN A CHARTER SCHOOL OR ←
17 CYBER CHARTER SCHOOL when the recipient first received an
18 opportunity scholarship under this subarticle, the amount of
19 Commonwealth basic education funding paid by the department to
20 the resident school district shall be reduced by an amount equal
21 to the Commonwealth's share of the school district's total
22 revenue per average daily membership.

23 Section 2509-B. Education Opportunity Board.

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

1 (b) Terms of members.--Members of the board shall serve a
2 term of four years. Vacancies shall be filled for an unexpired
3 term in the same manner as original appointments. Members shall
4 continue to serve after the expiration of their term until the
5 Governor appoints a replacement who is confirmed by a majority
6 of the members elected to the Senate. All members of the board
7 must be residents of this Commonwealth.

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

10 (d) Meetings.--Meetings shall be held at the call of the
11 chairperson or upon request in writing of a majority of the
12 board. A majority shall constitute a quorum and a majority of
13 such quorum shall have the authority to act upon any matter
14 properly before the board unless otherwise specified in this
15 subarticle.

16 (e) Compensation prohibited.--Members of the board shall
17 receive no compensation for their services but shall be
18 reimbursed for their actual and necessary expenses incurred in
19 the performance of their official board duties.

20 (f) Executive director and staff.--

21 (1) There shall be an executive director of the board
22 who shall serve as the executive officer and secretary of the
23 board. The board shall employ and fix the reasonable
24 compensation of the executive director.

25 (2) The executive director, with approval of the board,
26 may employ additional professional and clerical personnel as
27 may be necessary to carry out the duties and responsibilities
28 of the board.

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

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

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

6 (1) Establish guidelines for the administration of the
7 opportunity and local scholarship programs as required under
8 section 2507-B.

9 (2) Administer the opportunity and local scholarship
10 application and approval processes.

11 (3) Develop the opportunity and local scholarship
12 application form and any other forms necessary to administer
13 the opportunity and local scholarship programs, including the
14 notice required to be provided by school districts under
15 section 2503-B(d).

16 (4) Review and verify the income and residence of
17 opportunity and local scholarship applicants.

18 (5) Announce the award of opportunity and local
19 scholarships for the following school year under sections
20 2504-B(c) and 2505-B(a).

21 (6) Confirm the enrollment of opportunity scholarship
22 recipients in nonresident public schools and participating
23 nonpublic schools and allocate opportunity scholarship funds
24 to opportunity scholarship recipients.

25 (7) Beginning after the first school year of
26 implementation of the opportunity scholarship program,
27 prepare a report to be submitted to the Governor and the
28 General Assembly by December 1 of each year, made available
29 to the parents of opportunity scholarship recipients and
30 placed on the department's publicly accessible Internet

1 website that includes at least the following information for
2 the prior school year:

3 (i) The total number of opportunity scholarships
4 requested.

5 (ii) The total number and total dollar amount of
6 opportunity scholarships awarded, in total and
7 disaggregated by:

8 (A) Whether the opportunity scholarship
9 recipient attends a nonresident public school or a
10 participating nonpublic school.

11 (B) Grade level of the opportunity scholarship
12 recipient.

13 (C) Whether the opportunity scholarship
14 recipient resides in a school district with at least
15 one persistently lowest achieving school.

16 (iii) The administrative costs of the opportunity
17 scholarship program.

18 (iv) A listing of nonresident public schools to
19 which opportunity scholarship funds were disbursed on
20 behalf of opportunity scholarship recipients and the
21 amount disbursed to each nonresident public school.

22 (v) A listing of participating nonpublic schools in
23 which opportunity scholarship recipients enrolled and the
24 number of opportunity scholarship recipients who enrolled
25 in each participating nonpublic school.

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

29 Section 2510-B. Study.

30 Following the 2014-2015 school year, the board shall conduct

1 a study of the effectiveness of the opportunity scholarship
2 program and shall deliver a written report of its findings,
3 including any recommendations for changes to the program, to the
4 Governor, the chairman and minority chairman of the Education
5 Committee of the Senate and the chairman and minority chairman
6 of the Education Committee of the House of Representatives by
7 December 31, 2015.

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

9 The Pennsylvania Supreme Court shall have exclusive
10 jurisdiction to hear any challenge or to render a declaratory
11 judgment concerning the constitutionality of this subarticle.
12 The Supreme Court may take such action as it deems appropriate,
13 consistent with the Supreme Court's retaining jurisdiction over
14 such a matter, to find facts or to expedite a final judgment in
15 connection with such a challenge or request for declaratory
16 relief.

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

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

27 (c) Educational Improvement Tax Credit

28 Section 2521-B. Definitions.

29 The following words and phrases when used in this subarticle
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Business firm." An entity authorized to do business in this
3 Commonwealth and subject to taxes imposed under Article III, IV,
4 VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,
5 No.2), known as the Tax Reform Code of 1971. The term includes a
6 pass-through entity. For purposes of this subarticle, a business
7 firm shall be included in one of the following groups:

8 (1) Group 1 includes any business firm that is either
9 entering the second year of a two-year commitment or applying
10 for tax credits for a contribution to an educational
11 improvement organization that is also a school district
12 foundation, public school foundation, charter school
13 foundation or cyber charter school foundation.

14 (2) Group 2 includes any business firm that is renewing
15 a two-year commitment that was fulfilled in the most recent
16 fiscal year or is applying for tax credits for a contribution
17 to a prekindergarten scholarship organization in the same
18 amount that it had contributed in the most recent fiscal
19 year.

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

22 "Contribution." A donation of cash, personal property or
23 services, the value of which is the net cost of the donation to
24 the donor or the pro rata hourly wage, including benefits, of
25 the individual performing the services.

26 "Department." The Department of Community and Economic
27 Development of the Commonwealth.

28 "Educational improvement organization." A nonprofit entity
29 which:

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

1 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
2 26 U.S.C. § 1 et seq.); and

3 (2) contributes at least 80% of its annual receipts as
4 grants to a public school for innovative educational
5 programs.

6 For purposes of this definition, a nonprofit entity
7 "contributes" its annual cash receipts when it expends or
8 otherwise irrevocably encumbers those funds for expenditure
9 during the then current fiscal year of the nonprofit entity or
10 during the next succeeding fiscal year of the nonprofit entity.

11 A "nonprofit entity" includes a school district foundation,
12 public school foundation, charter school foundation or cyber
13 charter school foundation.

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

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

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

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

30 (2) Needs special education and related services.

1 (3) Is enrolled in a prekindergarten program or in a
2 school.

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

5 "Household." An individual living alone or with the
6 following: a spouse, parent and their unemancipated minor
7 children, other unemancipated minor children who are related by
8 blood or marriage or other adults or unemancipated minor
9 children living in the household who are dependent upon the
10 individual.

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

14 (1) Periodic payments for sickness and disability other
15 than regular wages received during a period of sickness or
16 disability.

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

20 (3) Payments commonly recognized as old-age or
21 retirement benefits paid to persons retired from service
22 after reaching a specific age or after a stated period of
23 employment.

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

26 (5) Payments to reimburse actual expenses.

27 (6) Payments made by employers or labor unions for
28 programs covering hospitalization, sickness, disability or
29 death, supplemental unemployment benefits, strike benefits,
30 Social Security and retirement.

1 (7) Compensation received by United States servicemen
2 serving in a combat zone.

3 "Income allowance."

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

5 (i) Before July 1, 2011, \$10,000 for each eligible
6 student, eligible prekindergarten student and dependent
7 member of a household.

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

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

19 "Innovative educational program." An advanced academic or
20 similar program that is not part of the regular academic program
21 of a public school but that enhances the curriculum or academic
22 program of the public school or provides prekindergarten
23 programs to public school students.

24 "Maximum annual household income."

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

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

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

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

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
6 to the following table:

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

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

18 "Pass-through entity." A partnership as defined in section
19 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the
20 Tax Reform Code of 1971, a single-member limited liability
21 company treated as a disregarded entity for Federal income tax
22 purposes or a Pennsylvania S corporation as defined in section
23 301(n.1) of the Tax Reform Code of 1971.

24 "Prekindergarten program." A program of instruction for
25 three-year-old or four-year-old students that utilizes a
26 curriculum aligned with the curriculum of the school with which
27 it is affiliated and that provides:

28 (1) a minimum of two hours of instructional and
29 developmental activities per day at least 60 days per school
30 year; or

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

4 "Prekindergarten scholarship organization." A nonprofit
5 entity that:

6 (1) Either is exempt from Federal taxation under section
7 501(c)(3) of the Internal Revenue Code of 1986 (Public Law
8 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate
9 segregated fund by a scholarship organization that has been
10 qualified under section 2522-B.

11 (2) Contributes at least 80% of its annual cash receipts
12 to a prekindergarten scholarship program by expending or
13 otherwise irrevocably encumbering those funds for
14 distribution during the then current fiscal year of the
15 organization or during the next succeeding fiscal year of the
16 organization.

17 "Prekindergarten scholarship program." A program to provide
18 tuition to eligible prekindergarten students to attend a
19 prekindergarten program operated by or in conjunction with a
20 school located in this Commonwealth and that includes an
21 application and review process for the purpose of making awards
22 to eligible prekindergarten students and awards scholarships to
23 eligible prekindergarten students without limiting availability
24 to only students of one school.

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

1 "Scholarship." An award under a scholarship program.
2 "Scholarship organization." A nonprofit entity that:
3 (1) is exempt from Federal taxation under section 501(c)
4 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
5 26 U.S.C. § 1 et seq.); and
6 (2) contributes at least 80% of its annual cash receipts
7 to a scholarship program.

8 For purposes of this definition, a nonprofit entity
9 "contributes" its annual cash receipts to a scholarship program
10 when it expends or otherwise irrevocably encumbers those funds
11 for distribution during the then current fiscal year of the
12 nonprofit entity or during the next succeeding fiscal year of
13 the nonprofit entity.

14 "Scholarship program." A program to provide tuition to
15 eligible students to attend a school located in this
16 Commonwealth. A scholarship program must include an application
17 and review process for the purpose of making awards to eligible
18 students. The award of scholarships to eligible students shall
19 be made without limiting availability to only students of one
20 school.

21 "School." A kindergarten, elementary school or secondary
22 school at which the compulsory attendance requirements of the
23 Commonwealth may be met and that meets the applicable
24 requirements of Title VI of the Civil Rights Act of 1964 (Public
25 Law 88-352, 78 Stat. 241), or a public or nonpublic
26 prekindergarten.

27 "School age." From the earliest admission age to a school's
28 prekindergarten or kindergarten program or, when no
29 prekindergarten or kindergarten program is provided, the
30 school's earliest admission age for beginners, until the end of

1 the school year the student attains 21 years of age or
2 graduation from high school, whichever occurs first.

3 "Special education school." A school or program within a
4 school that is designated specifically and exclusively for
5 students with any of the disabilities listed in 34 CFR § 300.8
6 (relating to child with a disability) and meets one of the
7 following:

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

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

12 (3) is a school for the blind or deaf receiving
13 Commonwealth appropriations; or

14 (4) is operated by or under the authority of a bona fide
15 religious institution or by the Commonwealth or any political
16 subdivision thereof.

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

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

21 (2) Support level 2. The student is enrolled in a
22 special education school.

23 "Tax credit." The educational improvement tax credit
24 established under this subarticle.

25 Section 2522-B. Qualification and application.

26 (a) Establishment.--In accordance with section 14 of Article
27 III of the Constitution of Pennsylvania, an educational
28 improvement tax credit program is established to enhance the
29 educational opportunities available to all students in this
30 Commonwealth.

1 (b) Information.--In order to qualify under this subarticle,
2 a scholarship organization, a prekindergarten scholarship
3 organization or an educational improvement organization must
4 submit information to the department that enables the department
5 to confirm that the organization is exempt from taxation under
6 section 501(c)(3) of the Internal Revenue Code of 1986 (Public
7 Law 99-514, 26 U.S.C. § 1 et seq.).

8 (c) Scholarship organizations and prekindergarten
9 scholarship organizations.--A scholarship organization or
10 prekindergarten scholarship organization must certify to the
11 department that the organization is eligible to participate in
12 the program established under this subarticle and must agree to
13 annually report the following information to the department by
14 September 1 of each year:

15 (1) (i) The number of scholarships awarded during the
16 immediately preceding school year to eligible
17 prekindergarten students.

18 (ii) The total and average amounts of scholarships
19 awarded during the immediately preceding school year to
20 eligible prekindergarten students.

21 (iii) The number of scholarships awarded during the
22 immediately preceding school year to eligible students in
23 grades kindergarten through eight.

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

27 (v) The number of scholarships awarded during the
28 immediately preceding school year to eligible students in
29 grades 9 through 12.

30 (vi) The total and average amounts of scholarships

1 awarded during the immediately preceding school year to
2 eligible students in grades 9 through 12.

3 (vii) Where the scholarship organization or
4 prekindergarten scholarship organization collects
5 information on a county-by-county basis, the total number
6 and the total dollar amount of scholarships awarded
7 during the immediately preceding school year to residents
8 of each county in which the scholarship organization or
9 prekindergarten scholarship organization awarded
10 scholarships.

11 (2) The information required under paragraph (1) shall
12 be submitted on a form provided by the department. No later
13 than May 1 of each year, the department shall annually
14 distribute such sample forms, together with the forms on
15 which the reports are required to be made, to each listed
16 scholarship organization and prekindergarten scholarship
17 organization.

18 (3) The department may not require any other information
19 to be provided by scholarship organizations or
20 prekindergarten scholarship organizations, except as
21 expressly authorized in this subarticle.

22 (d) Educational improvement organization.--

23 (1) An application submitted by an educational
24 improvement organization must describe its proposed
25 innovative educational program or programs in a form
26 prescribed by the department. In prescribing the form, the
27 department shall consult with the Department of Education as
28 necessary. The department shall review and approve or
29 disapprove the application. In order to be eligible to
30 participate in the program established under this subarticle,

1 an educational improvement organization must agree to
2 annually report the following information to the department
3 by September 1 of each year:

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

8 (ii) A description of how each grant was utilized
9 during the immediately preceding school year and a
10 description of any demonstrated or expected innovative
11 educational improvements.

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

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

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

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

1 (e) Notification.--The department shall notify the
2 scholarship organization, prekindergarten scholarship
3 organization or educational improvement organization that the
4 organization meets the requirements of this subarticle for that
5 fiscal year no later than 60 days after the organization has
6 submitted the information required under this section.

7 (f) Publication.--The department shall annually publish a
8 list of each scholarship organization, prekindergarten
9 scholarship organization or educational improvement organization
10 qualified under this section in the Pennsylvania Bulletin. The
11 list shall also be posted and updated as necessary on the
12 publicly accessible Internet website of the department.

13 Section 2523-B. Application.

14 (a) Scholarship organization or prekindergarten scholarship
15 organization.--A business firm shall apply to the department for
16 a tax credit. A business firm shall receive a tax credit if the
17 scholarship organization or prekindergarten scholarship
18 organization that receives the contribution appears on the list
19 established under section 2522-B(f).

20 (b) Educational improvement organization.--A business firm
21 must apply to the department for a tax credit. A business firm
22 shall receive a tax credit if the department has approved the
23 program provided by the educational improvement organization
24 that receives the contribution.

25 (c) Contributions.--A contribution by a business firm to a
26 scholarship organization, prekindergarten scholarship
27 organization or educational improvement organization shall be
28 made no later than 60 days following the approval of an
29 application under subsection (a) or (b).

30 Section 2524-B. Tax credit.

1 (a) Scholarship or educational improvement organizations.--
2 In accordance with section 2525-B(a), the Department of Revenue
3 shall grant a tax credit against any tax due under Article III,
4 IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,
5 No.2), known as the Tax Reform Code of 1971, to a business firm
6 providing proof of a contribution to a scholarship organization
7 or educational improvement organization in the taxable year in
8 which the contribution is made which shall not exceed 75% of the
9 total amount contributed during the taxable year by the business
10 firm. The tax credit shall not exceed \$300,000 annually per
11 business firm for contributions made to scholarship
12 organizations or educational improvement organizations.

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

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

1 The tax credit shall not exceed \$150,000 annually per business
2 firm for contributions made to prekindergarten scholarship
3 organizations.

4 (d) Combination of tax credits.--A business firm may receive
5 tax credits from the Department of Revenue in any tax year for
6 any combination of contributions under subsection (a), (b) or
7 (c). In no case may a business firm receive tax credits in any
8 tax year in excess of \$300,000 for contributions under
9 subsections (a) and (b). In no case shall a business firm
10 receive tax credits in any tax year in excess of \$150,000 for
11 contributions under subsection (c).

12 (e) Pass-through entity.--

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

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

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

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

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

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

8 (1) The department may accept ~~advance~~ applications ←
9 beginning on May 15 from business firms ~~in Group 1 and Group~~ ←
10 ~~2~~ for tax credits available during a fiscal year that is to
11 begin on July 1.

12 (2) If, on July 1 of a fiscal year, applications for tax
13 credits available during the fiscal year exceed the total
14 aggregate amount of tax credits available for the fiscal
15 year, the department shall approve applications for tax
16 credits on the following basis, subject to the provisions of
17 section 2523-B:

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

1 scholarship contribution in the second year of a two-year
2 commitment.

3 (ii) If tax credits remain available after credits
4 have been awarded under subparagraph (i), Group 2 firms
5 whose applications were received by July 1 shall be
6 accorded priority in the approval of applications for the
7 remaining tax credits. If the sum of the tax credits
8 approved under subparagraph (i) and the credits applied
9 for by Group 2 firms exceeds the total aggregate amount
10 of tax credits available for the program under section
11 2525-B, the department shall approve on a pro rata basis
12 the applications for the remaining tax credits submitted
13 by all Group 2 firms that applied by July 1, and the
14 applications of Group 3 firms shall be denied.

15 (iii) If tax credits remain available ON JULY 1 ←
16 after credits have been awarded under subparagraphs (i)
17 and (ii), applications of Group 3 firms shall be
18 approved, ON A PRO RATA BASIS WITHIN THAT GROUP IF ←
19 NECESSARY. THEREAFTER, THE DEPARTMENT SHALL APPROVE THE
20 APPLICATIONS OF ALL BUSINESS FIRMS on a daily basis, ←
21 beginning on July 1. If, on any day, the. IF, ON ANY DAY ←
22 AFTER JULY 1, THE CUMULATIVE sum of the tax credits
23 approved under subparagraphs (i) and (ii) and the tax ←
24 credits applied for on that day by Group 3 firms exceeds ←
25 the total aggregate amount of tax credits available for
26 the program under section 2525-B, the department shall
27 approve on a pro rata basis the applications received on
28 that day.

29 Section 2525-B. Limitations.

30 (a) Amount.--

1 (1) For the fiscal years 2011-2012, 2012-2013 and
2 2013-2014, the total aggregate amount of all tax credits
3 approved shall not exceed \$100,000,000 FOR SCHOLARSHIP ←
4 ORGANIZATIONS AND EDUCATIONAL IMPROVEMENT ORGANIZATIONS SHALL
5 NOT EXCEED \$92,000,000 in a fiscal year. No less than 75% of
6 the total aggregate amount of all tax credits approved shall
7 be used to provide tax credits for contributions from
8 business firms to scholarship organizations. No less than 25%
9 of the total aggregate amount of all tax credits approved
10 shall be used to provide tax credits for contributions from
11 business firms to educational improvement organizations.

12 (2) (i) Subject to adjustment under subparagraph (ii),
13 in the fiscal year 2014-2015 and each fiscal year
14 thereafter, the total aggregate amount of all tax credits
15 available shall equal the total aggregate amount of all
16 tax credits available in the prior fiscal year.

17 (ii) Beginning in the fiscal year 2014-2015, in any
18 fiscal year in which the total aggregate amount of all
19 tax credits approved for the prior fiscal year is equal
20 to or greater than 90% of the total aggregate amount of
21 all tax credits available for the prior fiscal year, the
22 total aggregate amount of all tax credits available shall
23 increase by 5%. The department shall publish on its
24 Internet website the total aggregate amount of all tax
25 credits available when the amount is increased under this
26 paragraph.

27 (3) For the fiscal years 2011-2012, 2012-2013 and
28 2013-2014, the total aggregate amount of all tax credits
29 approved for contributions from business firms to
30 prekindergarten scholarship programs shall not exceed

1 \$8,000,000 in a fiscal year.

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

9 (ii) Beginning in the fiscal year 2014-2015, in any
10 fiscal year in which the total aggregate amount of all
11 tax credits available is increased under paragraph (2),
12 the total aggregate amount of all tax credits available
13 for prekindergarten scholarship programs shall increase
14 by 5%. The department shall publish on its Internet
15 website the total aggregate amount of all tax credits
16 available for prekindergarten scholarship programs when
17 the amount is increased under this paragraph.

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

21 (c) Tax liability.--

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

25 (2) In the case of a credit granted to a pass-through
26 entity which elects to transfer the credit according to
27 section 2524-B(e), a tax credit granted for any one taxable
28 year and transferred to a shareholder, member or partner may
29 not exceed the tax liability of the shareholder, member or
30 partner.

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

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

11 Section 2526-B. Lists.

12 The Department of Revenue shall provide to the General
13 Assembly, by June 30 of each year, a list of all scholarship
14 organizations, prekindergarten scholarship organizations and
15 educational improvement organizations that receive contributions
16 from business firms granted a tax credit.

17 Section 2527-B. Guidelines.

18 The department, in consultation with the Department of
19 Education, shall develop guidelines to determine the eligibility
20 of an innovative educational program.

21 Section 2. Repeals are as follows:

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

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

27 Section 3. The provisions of Article XXV-B of the act are
28 severable. If any provision of that article or its application
29 to any person or circumstance is held invalid, the invalidity
30 shall not affect other provisions or applications of that

1 article which can be given effect without the invalid provision
2 or application.

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