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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1137 Session of  
2018

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INTRODUCED BY SCAVELLO, YUDICHAK, BREWSTER, MENSCH AND BOSCOLA,  
APRIL 23, 2018

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REFERRED TO FINANCE, APRIL 23, 2018

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AN ACT

1 Providing for the imposition of a Statewide personal income tax;  
2 authorizing the imposition of a personal income tax or an  
3 earned income tax by a school district subject to voter  
4 approval; providing for school property tax exclusion; and  
5 making repeals.

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

21 CHAPTER 1  
22 PRELIMINARY PROVISIONS

23 Section 101. Short title.

24 This act shall be known and may be cited as the School  
25 Property Tax Exclusion Act.

26 Section 102. Definitions.

27 The following words and phrases when used in this act shall  
28 have the meanings given to them in this section unless the  
29 context clearly indicates otherwise:

30 "Account." The School District Funding Reserve Account

1 established in section 702.

2 "Applicant." An individual making an application under  
3 section 501.

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

5 "Fiscal year." The fiscal year of the Commonwealth beginning  
6 on July 1 and ending on June 30 of the immediately following  
7 calendar year.

8 "Governing body." The board of school directors of a school  
9 district, except that the term shall mean the city council of a  
10 city of the first class for purposes of the levy and collection  
11 of any tax in a school district of the first class.

12 "Homestead property." A dwelling, which is owned and not  
13 rented, and so much of the land surrounding it as is reasonably  
14 necessary for the use of the dwelling as a home, occupied by an  
15 applicant. The term includes, but is not limited to:

16 (1) Premises occupied by reason of ownership or lease in  
17 a cooperative housing corporation.

18 (2) Mobile homes which are assessed as realty for local  
19 property tax purposes and the land, if owned by the  
20 applicant, upon which the mobile home is situated, and other  
21 similar living accommodations.

22 (3) A part of a multidwelling or multipurpose building  
23 and a part of the land upon which it is built.

24 (4) Premises occupied by reason of the applicant's  
25 ownership of a dwelling located on land owned by a nonprofit  
26 incorporated association of which the applicant is a member  
27 if the applicant is required to pay a pro rata share of the  
28 property taxes levied against the association's land.

29 (5) Premises occupied by a applicant if the applicant is  
30 required by law to pay a property tax by reason of the

1 applicant's ownership, including a possessory interest, in  
2 the dwelling, the land or both. An owner includes a person in  
3 possession under a contract of sale, deed of trust, life  
4 estate, joint tenancy or tenancy in common or by reason of  
5 statutes of descent and distribution.

6 "Local Tax Enabling Act." The act of December 31, 1965  
7 (P.L.1257, No.511), known as The Local Tax Enabling Act.

8 "Public School Code of 1949." The act of March 10, 1949  
9 (P.L.30, No.14), known as the Public School Code of 1949.

10 "School district." A school district of the first class,  
11 first class A, second class, third class or fourth class,  
12 including any independent school district. For purposes of the  
13 levy, assessment and collection of any tax in a school district  
14 of the first class, the term shall include the city council.

15 "Secretary." The Secretary of Revenue of the Commonwealth.

16 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,  
17 No.2), known as the Tax Reform Code of 1971.

18 CHAPTER 3

19 TAX

20 SUBCHAPTER A

21 EDUCATION TAX

22 Section 301. Education tax.

23 (a) General rule.--In addition to the tax collected under  
24 section 302 of the Tax Reform Code of 1971, the Commonwealth  
25 shall impose and administer the tax set forth in subsection (b)  
26 in the same manner as the tax under Article III of the Tax  
27 Reform Code of 1971.

28 (b) Imposition of tax.--

29 (1) Every resident individual, estate or trust shall be  
30 subject to, and shall pay for the privilege of receiving each

1 of the classes of income enumerated in section 303 of the Tax  
2 Reform Code of 1971, a tax upon each dollar of income  
3 received by that resident during that resident's taxable year  
4 at the rate of 1.98%.

5 (2) Every nonresident individual, estate or trust shall  
6 be subject to, and shall pay for the privilege of receiving  
7 each of the classes of income enumerated in section 303 of  
8 the Tax Reform Code of 1971 from sources within this  
9 Commonwealth, a tax upon each dollar of income received by  
10 that nonresident during that nonresident's taxable year at  
11 the rate of 1.98%.

12 (c) Deposit.--All money collected under this section shall  
13 be deposited in the account.

14 (d) Combination of tax forms.--The department shall  
15 incorporate the taxpayer reporting requirement for the  
16 implementation of this section into the forms utilized by the  
17 department under Article III of the Tax Reform Code of 1971.

18 (e) Definitions.--The words and phrases used in this section  
19 shall have the same meaning given to them in Article III of the  
20 Tax Reform Code of 1971.

## 21 SUBCHAPTER B

### 22 TAXATION BY SCHOOL DISTRICTS

23 Section 311. Scope.

24 This subchapter authorizes school districts to levy, assess  
25 and collect a tax on personal income or a tax on earned income  
26 and net profits as a means of abolishing property taxation by  
27 the school district.

28 Section 312. Definitions.

29 The words and phrases used in this subchapter shall have the  
30 same meanings given to them in the Tax Reform Code of 1971 or

1 the Local Tax Enabling Act unless the context clearly indicates  
2 otherwise.

3 Section 313. (Reserved).

4 Section 314. Preemption.

5 No act of the General Assembly shall vacate or preempt any  
6 resolution passed or adopted under the authority of this  
7 subchapter, or any other act, providing authority for the  
8 imposition of a tax by a school district unless the act of the  
9 General Assembly expressly vacates or preempts the authority to  
10 pass or adopt resolutions.

11 Section 315. General tax authorization.

12 (a) General rule.--A board of school directors may, by  
13 resolution, levy, assess and collect or provide for the levying,  
14 assessment and collection of a tax on personal income or a tax  
15 on earned income and net profits for general revenue purposes.

16 (b) Personal income tax.--

17 (1) A board of school directors may levy, assess and  
18 collect a tax on the personal income of resident individuals  
19 at a rate determined by the board of school directors.

20 (2) A school district which seeks to levy the tax  
21 authorized under paragraph (1) must comply with section 316.

22 (3) If a board of school directors seeks to impose a  
23 personal income tax under this subsection and the referendum  
24 under section 316 is approved by the electorate, the board of  
25 school directors shall have no authority to impose an earned  
26 income and net profits tax under subsection (c) or any other  
27 act.

28 (4) A personal income tax imposed under the authority of  
29 this section shall be levied by the school district on each  
30 of the classes of income specified in section 313 of the Tax

1 Reform Code of 1971 and regulations under that section,  
2 provisions of which are incorporated by reference into this  
3 subchapter.

4 (i) Notwithstanding the provisions of section 353(f)  
5 of the Tax Reform Code of 1971, the department may permit  
6 the proper officer or an authorized agent of a school  
7 district imposing a personal income tax under this  
8 subchapter to inspect the tax returns of any taxpayer of  
9 the school district or may furnish to the officer or an  
10 authorized agent an abstract of the return of income of  
11 any current or former resident of the school district or  
12 supply information concerning any item of income  
13 contained in any tax return. The officer or authorized  
14 agent of the school district imposing a tax under this  
15 subchapter shall be furnished the requested information  
16 upon payment to the department of the actual cost of  
17 providing the requested information.

18 (ii) (A) Except for official purposes or as  
19 provided by law, it shall be unlawful for any officer  
20 or authorized agent of a school district to do any of  
21 the following:

22 (I) Disclose to any other individual or  
23 entity the amount or source of income, profits,  
24 losses, expenditures or any particular  
25 information concerning income, profits, losses or  
26 expenditures contained in any return.

27 (II) Permit any other individual or entity  
28 to view or examine any return or copy of a return  
29 or any book containing any abstract or  
30 particulars.

1 (III) Print, publish or publicize in any  
2 manner any return; any particular information  
3 contained in or concerning the return; any amount  
4 or source of income, profits, losses or  
5 expenditures in or concerning the return; or any  
6 particular information concerning income,  
7 profits, losses or expenditures contained in or  
8 relating to any return.

9 (B) Any officer or authorized agent of a school  
10 district that violates clause (A):

11 (I) May be fined not more than \$1,000 or  
12 imprisoned for not more than one year, or both.

13 (II) May be removed from office or  
14 discharged from employment.

15 (c) Earned income and net profits tax.--

16 (1) A board of school directors may levy, assess and  
17 collect a tax on earned income and net profits of resident  
18 individuals at a rate determined by the board of school  
19 directors.

20 (2) A school district which seeks to levy the tax  
21 authorized under paragraph (1) must comply with section 316.

22 (3) If a board of school directors seeks to impose a tax  
23 on earned income and net profits under this subsection and  
24 the referendum under section 316 is approved by the  
25 electorate, the board of school directors shall have no  
26 authority to impose a personal income tax under subsection  
27 (b) or any other act.

28 Section 316. Referendum.

29 (a) General rule.--In order to levy a personal income tax or  
30 an earned income and net profits tax under this subchapter, a

1 governing body shall use the procedures set forth in subsections  
2 (b), (c), (d), (e), (f) and (g).

3 (b) Approved by electorate.--

4 (1) Subject to notice and public hearing requirements of  
5 subsection (g), a governing body may levy the personal income  
6 tax or earned income and net profits tax under this  
7 subchapter only by obtaining the approval of the electorate  
8 of the affected school district in a public referendum at  
9 only the primary election preceding the fiscal year when the  
10 personal income tax or earned income and net profits tax will  
11 be initially imposed or the rate increased.

12 (2) The referendum question must state the initial rate  
13 of the proposed personal income tax or earned income and net  
14 profits tax, the purpose of the tax, the duration of the tax  
15 and the amount of revenue to be generated by the  
16 implementation of the tax.

17 (3) The question shall be in clear language that is  
18 readily understandable by a layperson. For the purpose of  
19 illustration, a referendum question may be framed as follows:

20 Do you favor paying a personal income tax of X% for  
21 the purpose of X, for X years, which will generate  
22 \$X?

23 Do you favor paying an earned income and net profits  
24 tax of X% for the purpose of X, for X years, which  
25 will generate \$X?

26 (4) A nonlegal interpretative statement must accompany  
27 the question in accordance with section 201.1 of the act of  
28 June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania  
29 Election Code, that includes the following:

30 (i) the initial rate of the personal income or

1           earned income and net profits tax imposed under this  
2           subchapter; and

3                   (ii) the estimated revenues to be derived from the  
4           initial rate imposed under this subchapter.

5           (c) School district located in more than one county.--In the  
6 event a school district is located in more than one county,  
7 petitions under this section shall be filed with the election  
8 officials of the county in which the administrative offices of  
9 the school district are located.

10          (d) Review and certification.--The election officials who  
11 receive a petition shall perform all administrative functions in  
12 reviewing and certifying the validity of the petition and  
13 conduct all necessary communications with the school district.

14          (e) Notification.--

15               (1) If the election officials of the county who receive  
16 the petition certify that it is sufficient under this section  
17 and determine that a question should be placed on the ballot,  
18 the decision shall be communicated to election officials in  
19 any other county in which the school district is also  
20 located.

21               (2) Election officials in the other county or counties  
22 shall cooperate with election officials of the county that  
23 receives the petition to ensure that an identical question is  
24 placed on the ballot at the same election throughout the  
25 entire school district.

26          (f) Certification of results.--Election officials from each  
27 county involved shall independently certify the results from  
28 their county to the governing body.

29          (g) Adoption of resolution.--

30               (1) In order to levy the tax under this section, the

1 governing body shall adopt a resolution which shall refer to  
2 this subchapter prior to placing a question on the ballot.

3 (2) Prior to adopting a resolution imposing the tax  
4 authorized by this section, the governing body shall give  
5 public notice of its intent to adopt the resolution in the  
6 manner provided by the Local Tax Enabling Act and shall  
7 conduct at least two public hearings regarding the proposed  
8 adoption of the resolution. One public hearing shall be  
9 conducted during normal business hours and one public hearing  
10 shall be conducted during evening hours or on a weekend.

11 Section 317. Continuity of tax.

12 Every tax levied under this subchapter shall continue in  
13 force on a fiscal year basis without annual reenactment unless  
14 the rate of the tax is subsequently changed or the duration  
15 placed on the referendum has expired.

16 Section 318. Collections.

17 Any income tax imposed under this subchapter shall be subject  
18 to the provisions for collection and delinquency found in the  
19 Local Tax Enabling Act.

20 Section 319. Credits.

21 (a) Credit.--Except as set forth in subsection (b), the  
22 provisions of the Local Tax Enabling Act shall be applied by a  
23 board of school directors to determine any credits applicable to  
24 a tax imposed under this subchapter.

25 (b) Limitation.--Payment of any tax on income to any state  
26 other than Pennsylvania or to any political subdivision located  
27 outside the boundaries of this Commonwealth by a resident of a  
28 school district located in this Commonwealth shall not be  
29 credited to and allowed as a deduction from the liability of  
30 such person for any income tax imposed by the school district of

1 residence under this subchapter.

2 Section 320. Exemption and special provisions.

3 (a) Earned income and net profits tax.--A school district  
4 that imposes an earned income and net profits tax authorized  
5 under section 315(c) may exempt from the payment of that tax any  
6 person whose total income from all sources is less than \$12,000.

7 (b) Applicability to personal income tax.--Section 314 of  
8 the Tax Reform Code of 1971 shall apply to any personal income  
9 tax levied by a school district under section 315(b).

10 Section 321. Regulations.

11 A school district that imposes:

12 (1) an earned income and net profits tax authorized  
13 under section 315(c) shall be subject to the provisions of  
14 the Local Tax Enabling Act and may adopt procedures for the  
15 processing of claims for credits and exemptions under  
16 sections 319 and 320; or

17 (2) a personal income tax under section 315(b) shall be  
18 subject to all regulations adopted by the department in  
19 administering the tax due to the Commonwealth under Article  
20 III of the Tax Reform Code of 1971.

21 CHAPTER 5

22 PROCEDURE AND EXCLUSION

23 Section 501. Administration and procedure.

24 (a) Application and determinations.--Each owner of real  
25 property seeking to have property approved as homestead property  
26 shall file an application with the assessor on a form developed  
27 by the department. Determinations with respect to the  
28 qualification of all or a part of a parcel of real property as  
29 homestead property shall be made by the assessor.

30 (b) Filing deadlines and renewal of application.--

1 Applications shall be filed with the assessor not later than  
2 March 1 of each year, provided that, in a city of the first  
3 class, the application shall be filed with the assessor not  
4 later than a date set by the governing body of the county, which  
5 date shall be no later than December 1 of the year prior to the  
6 year in which prohibition under section 502(a) shall first  
7 apply. The governing body of a county may adopt a schedule for  
8 review or reapplication for real property previously approved as  
9 homestead property.

10 (c) Notice of applications and deadlines.--The assessor  
11 shall provide sufficient notice to the public regarding the  
12 availability of applications to designate real property as  
13 homestead property and all filing deadlines. The assessor shall  
14 make applications available at least 75 days before the filing  
15 deadline, provided that, in a city of the first class, the  
16 application shall be available at least 60 days before the  
17 filing deadline.

18 (d) Denial of application.--The assessor shall provide to  
19 each property owner whose application for approval as homestead  
20 property is being denied in whole or in part a written notice of  
21 denial by first class mail not later than 120 days after the  
22 filing deadline. The notice shall include all reasons for  
23 denial. Failure by the assessor to provide notice under this  
24 subsection shall be deemed to be approval of the application.

25 (e) Appeals of assessor's decision.--An owner aggrieved by  
26 the decision of the assessor may appeal to the board, as defined  
27 under 53 Pa.C.S. § 8582 (relating to definitions), for a review  
28 of the decision in a manner consistent with the provisions for  
29 appeal of assessments under the applicable assessment law.  
30 Appeals under this subsection shall be limited to whether the

1 application meets the requirements of subsections (a) and (b) or  
2 whether the parcel for which the appeal is made meets the  
3 definition of "homestead property."

4 (f) Other appeals.--Appeals regarding the assessed value of  
5 real property under the applicable assessment law shall be based  
6 on the assessed value of the real property before application of  
7 the prohibition under section 502(a) for homestead property. The  
8 issue of qualification as homestead property shall not be raised  
9 in an appeal except as provided in subsection (e).

10 (g) False or fraudulent applications.--The assessor may  
11 select, randomly or otherwise, applications filed under  
12 subsection (a) to review for false or fraudulent information.

13 (h) Penalties.--Any person who files an application under  
14 subsection (a) which is false as to any material matter shall:

15 (1) pay any taxes which would have been due but for the  
16 false application, plus simple interest computed at the rate  
17 provided in section 806 of the act of April 9, 1929 (P.L.343,  
18 No.176), known as The Fiscal Code;

19 (2) pay a penalty equal to 10% of the unpaid taxes  
20 computed under paragraph (1); and

21 (3) upon conviction for filing an application under  
22 subsection (a) which a person knows to be fraudulent, be  
23 guilty of a misdemeanor of the third degree and be sentenced  
24 to pay a fine not exceeding \$2,500.

25 (i) Reports.--

26 (1) At the same time as the assessor certifies the tax  
27 duplicate, the assessor shall provide to each school district  
28 at no charge a certified report listing at least all of the  
29 following information:

30 (i) The parcel number of each parcel which is

1 approved, in whole or in part, as homestead property.

2 (ii) The assessed value of each parcel which is  
3 approved, in whole or in part, as homestead property.

4 (iii) The portion of the assessed value of each  
5 parcel listed under paragraph (ii) which is approved as  
6 homestead property.

7 (2) The governing body of the county may set reasonable  
8 fees for providing customized reports or services not  
9 otherwise required under 53 Pa.C.S. Ch. 85 (relating to  
10 assessments of persons and property) or other applicable law  
11 to political subdivisions.

12 (j) Notification on change of use.--

13 (1) A property owner whose property is approved as  
14 homestead property and which property no longer qualifies as  
15 homestead property shall notify the assessor within 45 days  
16 of the date the property no longer qualifies as homestead  
17 property. Failure to notify the assessor as required by this  
18 subsection shall be treated in the same manner as a false  
19 application under subsection (g).

20 (2) The recorder of deeds shall periodically provide to  
21 the assessor a list of real property conveyance documents  
22 which have been presented for recording. The list shall  
23 include the name of the grantor and the address of the  
24 property. For the purposes of this paragraph, the word  
25 "document" shall have the meaning ascribed to it in section  
26 1101-C of the Tax Reform Code of 1971.

27 Section 502. Exclusion of school property taxes.

28 (a) General rule.--A school district may exclude up to 100%  
29 of the assessed value of each homestead property within the  
30 jurisdiction of the school district.

1 (b) Prohibition.--A school district may not increase the  
2 millage rate of the school district's tax on real property to  
3 pay for an exclusion under subsection (a).

4 CHAPTER 7

5 FUNDING PROVISIONS

6 Section 701. Definitions.

7 The following words and phrases when used in this chapter  
8 shall have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Base revenue." The money a school district receives from  
11 homestead property taxes during the 2018-2019 school year and  
12 the amount of outstanding delinquent school property taxes owed  
13 to the school district for the 2018-2019 school year.

14 "Cost of living factor." The lesser of:

15 (1) the percentage increase in the Statewide average  
16 weekly wage, as defined in 53 Pa.C.S. § 8401 (relating to  
17 definitions), from the previous calendar year; or

18 (2) the percentage change in the tax collected under  
19 section 301(b)(1) from the previous calendar year.

20 Section 702. School District Funding Reserve Account.

21 (a) Establishment.--The School District Funding Reserve  
22 Account is established as a separate account in the State  
23 Treasury.

24 (b) Use.--The Department of Education shall use the account  
25 to make disbursements under section 704.

26 (c) Continuing appropriation.--The money of the account is  
27 continuously appropriated to the Department of Education as  
28 provided in this act. This appropriation shall not lapse at the  
29 end of a fiscal year.

30 Section 703. Sources and transfers.

1 (a) Deposit.--The following shall be deposited into the  
2 account:

3 (1) Money collected by the department under section 301.

4 (2) Appropriations.

5 (3) Return on money in the account.

6 (b) Transfer.--The Secretary of the Budget, in consultation  
7 with the secretary, shall compute the amount of tax refund  
8 payments that result from the imposition of the tax increase  
9 from 3.07% to 5.05% and that are payable from the General Fund.  
10 The Secretary of the Budget may transfer that amount of funding  
11 to the General Fund no later than June 5 of each year. The  
12 Secretary of the Budget shall provide 10 days' prior  
13 notification of the amount to be transferred to the chairperson  
14 and minority chairperson of the Appropriations Committee of the  
15 Senate and the chairperson and minority chairperson of the  
16 Appropriations Committee of the House of Representatives.  
17 Section 704. Standard disbursements to school districts.

18 (a) General rule.--In fiscal year 2019-2020, the Department  
19 of Education shall disburse to each school district that  
20 provides an exclusion or reduction under section 502(a) an  
21 amount equal to the sum of the following:

22 (1) the school district's base revenues, plus

23 (2) the school district's base revenue multiplied by the  
24 cost-of-living factor.

25 (b) Annual adjustment.--In fiscal year 2019-2020 and each  
26 fiscal year thereafter, the Department of Education shall  
27 disburse to a school district an amount equal to the sum of the  
28 following:

29 (1) The amount received by the school district in the  
30 prior fiscal year under this section.



1           (2) Under no circumstances shall the invalidity of any  
2 provision or application of this act affect the validity of  
3 any provision in this act that abolishes the power of the  
4 governing body and any school district and city of the first  
5 class or any other political subdivision to levy, assess or  
6 collect a tax on any interest in real property for school  
7 purposes.

8 Section 903. Repeals.

9           (a) Intent.--The General Assembly declares that the repeals  
10 under subsection (b) are necessary to effectuate this act.

11           (b) Provisions.--All acts and parts of acts that are  
12 inconsistent with this act are repealed to the extent of such  
13 inconsistency.

14 Section 904. Effective date.

15           This act shall take effect January 1, 2019.