

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 2977 Session of  
1980

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PUNT, MOWERY AND ROCKS, OCTOBER 7, 1980

REFERRED TO COMMITTEE ON STATE GOVERNMENT, OCTOBER 7, 1980

AN ACT

1 Providing for a job creation economic expansion program.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the "Job Creation  
6 Economic Expansion Act."

7 Section 2. Policy.

8 (a) It is hereby the declared public policy of the General  
9 Assembly of the Commonwealth of Pennsylvania that a maximum  
10 Statewide effort be directed toward the creation of jobs and the  
11 expansion of business investment in the private sector.

12 (b) To encourage this economic growth, the General Assembly  
13 by this act intends to provide a stimulus to business and  
14 industry in the form of rebates related directly to the hiring  
15 and rehiring of employees to fill either new or recreated  
16 positions and tax credits related to the amount of new capital

1 investment in the Commonwealth.

2 Section 3. Definitions.

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

6 "Average yearly employment." The number of employees  
7 determined by dividing the total number of employees reported to  
8 the Bureau of Labor and Industry on form UC-2 for each calendar  
9 quarter, by four.

10 "Base year." The calendar year 1980.

11 "Base year index." The amount of unemployment compensation  
12 contributions an employer made for calendar year 1980.

13 "Business." An individual proprietorship, partnership or  
14 corporation.

15 "Department." The Department of Revenue.

16 "Employer." An individual proprietorship, partnership or  
17 corporation employing one or more persons for a salary, wage,  
18 commission or other compensation and subject to the act of  
19 December 5, 1936 (2nd Sp.Sess., P.L.2897, No.1), known as the  
20 "Unemployment Compensation Law."

21 "Individual." A natural person who operates a business  
22 either as a sole proprietor or as a partner in a partnership and  
23 is subject to tax under Article III of the act of March 4, 1971  
24 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

25 "Secretary." The Secretary of Revenue.

26 Section 4. Rebate for the creation of jobs.

27 There shall be allowed as an incentive for the creation of  
28 jobs, a rebate to all employers, of their unemployment  
29 compensation contribution in excess of the calculated base year  
30 index made to the Pennsylvania Unemployment Compensation Fund

1 because of their establishing or increasing employment in the  
2 Commonwealth. The rebate shall be allowed and calculated as  
3 follows:

4 (1) Calculation of the base year index shall be made by  
5 each employer seeking to claim a job rebate under this act.

6 (2) For calendar year 1981 and any year thereafter in  
7 which a rebate is allowed pursuant to paragraphs (3) and (4),  
8 an employer shall be eligible for a rebate under this act if:

9 (i) such employer's yearly average employment for  
10 the current year exceeds by at least five, the average  
11 yearly employment for the base year; and

12 (ii) such employer's contributions to the  
13 unemployment compensation fund for the current year  
14 exceeds the base year index.

15 The rebate for any calendar year shall be the amount by which  
16 the current year's contribution exceeds the employer's  
17 calculated base year index. Such rebates shall be payable from  
18 the General Fund.

19 (3) If the jobs so created were:

20 (i) Established in conjunction with capital  
21 investment in a new business facility or an expanded  
22 business facility such employer shall be entitled to a  
23 rebate, as long as qualified, with respect to the number  
24 of employees in excess of the base year average, for five  
25 consecutive calendar years. In the event an employer,  
26 initially qualifies hereunder but for any reason fails to  
27 qualify in any of the succeeding years of eligibility,  
28 such nonqualification shall terminate the right to any  
29 future rebate.

30 (ii) Established without concurrent capital

1 investment in any new or expanded business facility then  
2 such employer shall be entitled to a rebate for two  
3 consecutive calendar years. In the event such employer,  
4 for any reason, does not qualify in the second year, such  
5 nonqualification shall terminate the right to any future  
6 rebate.

7 (4) (i) Eligibility for initial claims for rebates under  
8 this act shall terminate with claims for calendar year  
9 1985.

10 (ii) Any employer who has made an initial claim  
11 within the above period shall be entitled the full number  
12 of years of eligibility set out in paragraph (3) and  
13 shall be entitled use of the carry over provision of  
14 paragraph (6).

15 (5) In order to minimize the administrative costs in  
16 affecting these rebates, the amount or allowable portion  
17 thereof shall be returned to the employer in conjunction with  
18 the personal or corporate income tax return of such employer  
19 due next after the end of the calendar year of rebate  
20 eligibility by reducing the amount of additional payment  
21 required or by increasing the amount of refund otherwise due:  
22 Provided, however, That any such rebate is not and shall not  
23 be construed as affecting the tax liability of any taxpayer.  
24 The Department of Revenue is hereby authorized to pay the  
25 rebates provided for herein.

26 (6) (i) The claim for any rebate in any year shall not  
27 exceed one-half of the amount of tax liability on the tax  
28 return used to affect the rebate.

29 (ii) In the event the full rebate cannot be claimed  
30 in any year, the unused portion of any year's entitlement

shall carry over and is hereby specifically allowed  
without limit to be claimed in future years until the  
full amount of the allowable rebate is received.

Section 5. Investment and plant expansion credits.

(a) Plant expansion credit:

(1) Beginning with the taxable year which commences in  
the calendar year 1981 and each year thereafter, there shall  
be allowed for all businesses, a credit against the tax  
imposed by sections 302, 402 and 502 of the "Tax Reform Code  
of 1971," for qualified investment in new or expanded plant  
facilities within the Commonwealth of Pennsylvania.

(2) (i) The credit for corporations subject to tax  
under section 402 or 502 of the "Tax Reform Code of  
1971," shall be \$100 for each \$100,000 or a major  
fraction thereof invested in a new or expanded business  
facility.

(ii) The credit for individuals subject to tax under  
section 302 of the "Tax Reform Code of 1971," shall be in  
an amount for each \$100,000 or major fraction thereof  
invested in a new or expanded business facility  
determined by multiplying \$100 times the ratio that the  
tax rate imposed by section 302 of the "Tax Reform Code  
of 1971" bears to the tax rate imposed by section 402 of  
the "Tax Reform Code of 1971."

(3) A new business facility shall mean a structure  
including but not limited to a factory, mill, plant, refiner,  
warehouse or other building within which people are  
customarily employed or which is customarily used to house  
machinery or equipment. In order to qualify as a new business  
facility, such facility shall meet the following

1 requirements:

2 (i) The facility must be used by the taxpayer in the  
3 operation of a revenue-producing enterprise. A taxpayer  
4 whose only activity respecting the facility is to lease  
5 it cannot qualify the facility as a revenue-producing  
6 enterprise. If the taxpayer uses a portion of the  
7 facility in a qualifying manner and leases the remainder  
8 to others, the taxpayer may claim only that portion of  
9 the facility which qualifies.

10 (ii) The facility shall be acquired by or leased to  
11 the taxpayer after December 31, 1980.

12 (iii) The facility cannot have been used immediately  
13 prior to acquisition by the taxpayer as a revenue-  
14 producing enterprise of the same or substantially  
15 identical type. If the preceding owner or lessor of the  
16 premises operated a revenue-producing enterprise of the  
17 same or substantially the same type as that to be  
18 operated by the taxpayer, then the taxpayer cannot claim  
19 a credit.

20 (iv) The facility must not be used as a replacement  
21 business facility.

22 (4) The expansion of an existing facility may qualify  
23 for a credit under this section if, in addition to meeting  
24 requirements of subparagraphs (i), (ii) and (iv) of paragraph  
25 (3):

26 (i) the investment made to expand the facility  
27 exceeds \$1,000,000; or

28 (ii) the investment made to expand the facility is  
29 in excess of 100% of the taxpayer's original investment  
30 in the facility being so expanded.

1 (5) (i) No credit shall be allowed for investment in a  
2 replacement facility unless the investment exceeds  
3 \$3,000,000 or 300% of the taxpayer's original investment  
4 in the old facility. In such case, the replacement  
5 facility shall be considered an expanded business  
6 facility for purposes of receiving this credit.

7 (ii) A replacement business facility is one which  
8 replaces a facility which previously had been located  
9 within the Commonwealth. It shall be presumed that a new  
10 facility is a replacement for an old facility if either  
11 of the following conditions are met:

12 (A) The old facility had been operated by the  
13 taxpayer or a related taxpayer for three of the  
14 preceding five years before the taxable year in which  
15 commercial operations were commenced at the new  
16 facility.

17 (B) The old facility was used by the taxpayer or  
18 a related taxpayer in the operation of a revenue-  
19 producing enterprise and the taxpayer continues to  
20 operate the same or substantially the same type of  
21 revenue-producing enterprise at the new facility.

22 (6) (i) In no case shall the credit granted in any year  
23 exceed:

24 (A) For corporations the tax imposed pursuant to  
25 section 402 or 502 of the "Tax Reform Code of 1971."

26 (B) For individuals that portion of the entire  
27 tax imposed pursuant to section 302 of the "Tax  
28 Reform Code of 1971" attributable to income from net  
29 profits as defined by section 303(a)(2) of the "Tax  
30 Reform Code of 1971."

(ii) In the event the entire credit allowable cannot be taken in the initial year of eligibility, the unused portion may be carried over into the two succeeding taxable years: Provided, however, That if the business in the initial year of eligibility had a net loss from operations, the allowable credit shall carry over and shall be available initially in the first year in which such business shows a net profit.

(b) Investment credit:

(1) Beginning with the taxable year which commences in the calendar year 1981 and each year thereafter, there shall be allowed for all businesses a credit against the tax imposed by sections 302, 402 and 502 of the "Tax Reform Code of 1971" for qualified investment in tangible personal property predominantly used within the Commonwealth.

(2) (i) The credit for corporations subject to tax under sections 402 and 502 of the "Tax Reform Code of 1971" shall equal 5% of the qualifying investment placed in service during the current taxable year. If the tax liability of the corporation computed before any credits exceeds \$25,000 the credit may not exceed \$25,000 plus 50% of the tax liability over that amount.

(ii) In no case shall the credit for a corporation in any year exceed its tax liability for that year imposed pursuant to section 402 or 502 of the "Tax Reform Code of 1971."

(iii) The credit for individuals subject to tax under section 302 of the "Tax Reform Code of 1971" shall equal such percent of the qualified investment found by multiplying 5% by the ratio that the tax rate imposed by



1 section 302 of the "Tax Reform Code of 1971" bears to the  
2 tax rate imposed by section 402 of the "Tax Reform Code  
3 of 1971," placed in service during the current taxable  
4 year.

5 (iv) In no case shall the credit for an individual  
6 in any year exceed that portion of the entire tax  
7 liability for said year imposed by section 302 of the  
8 "Tax Reform Code of 1971" attributable to income from net  
9 profits as defined by section 303(a)(2) of the "Tax  
10 Reform Code of 1971."

11 (3) The amount of qualifying investment is the sum of  
12 the basis of new qualifying property and up to \$100,000 of  
13 the cost of used qualifying property. If the qualifying  
14 property has a useful life of less than seven, but at least  
15 five years, the amount of qualifying investment shall be only  
16 two-thirds of the basis or cost. If the qualifying property  
17 has a useful life of less than five, but at least three  
18 years, the amount of the qualifying investment shall be only  
19 one-third of the basis or cost. No credit shall be allowed  
20 for property with a useful life less than three years.

21 (4) A qualifying investment is one made in depreciable  
22 or amortizable tangible personal property, or tangible  
23 property, other than a building or its components, used as an  
24 integral part of manufacturing, extraction, or production, or  
25 elevators and escalators, or research and development  
26 facilities, or facilities for the bulk storage of fungible  
27 commodities. Property used predominately to furnish lodging  
28 is not qualifying property except for investment in a hotel  
29 or motel furnishing accommodations predominately to  
30 transients, and vending machines, washing machines and dryers

1 in lodging facilities. Livestock, except for horses, is  
2 qualifying property if, within a one-year period starting six  
3 months before the date of acquisition, substantially  
4 identical livestock is disposed of without any credit  
5 recapture, provided that the amount of the credit will be  
6 allowed only on the excess of the cost of the acquired  
7 livestock over the amount realized on the disposition. No  
8 credit shall be allowed for investment for movie and  
9 television films and tape, or for property used by a tax  
10 exempt organization, or used by or leased to or by a  
11 governmental unit. Lessors are eligible for the credit only  
12 if the leased property has been manufactured or produced by  
13 the lessor or if the term of the lease is less than 50% of  
14 the useful life of the leased property and the lessor's  
15 business expense deductions, other than rental payments are  
16 reimbursed expenses, related to the property are more than  
17 15% of the rental income from the property for the first year  
18 of the lease.

19 (5) Where property is disposed of before the end of its  
20 estimated useful life, the tax for the year of disposal shall  
21 be increased by the difference between the credit originally  
22 allowed and the credit that would have been allowed if the  
23 computation had been based on the actual period of use.

24 Property is disposed of if it is transferred to a  
25 nonqualifying use.

## 26 Section 6. Procedure and enforcement.

27 (a) The secretary shall provide appropriate forms to  
28 calculate and allow the rebate and credits authorized by this  
29 act and the secretary may require the submission of copies of  
30 Federal Form 940, UC-2's or other data as he determines.

1 (b) The department shall enforce the provisions of this act  
2 and is hereby empowered to prescribe, adopt, promulgate and  
3 enforce rules and regulations relating to any matter or thing  
4 pertaining to the administration and enforcement of the  
5 provisions of this act and the allowance or rebate credits and  
6 penalties imposed by this act. The Department of Labor and  
7 Industry shall fully cooperate with the Department of Revenue in  
8 setting up procedures for necessary exchanges of information  
9 necessitated by provisions of this act.

10 (c) The Secretaries of Revenue and Labor and Industry or any  
11 agent authorized in writing by them, are hereby authorized to  
12 examine the books, papers and records and to investigate the  
13 character of any business in order to verify the accuracy of any  
14 report made. Every such business is hereby directed and required  
15 to give to these departments, or their duly authorized agent,  
16 the means, facilities and opportunity for such examination and  
17 investigations, as are hereby provided and authorized.

18 Section 7. Penalty.

19 Any person who shall willfully make a false and fraudulent  
20 return shall be guilty of willful and corrupt perjury, and in  
21 addition to any other punishment, shall be liable to pay to the  
22 department three times the amount of the fraudulent claim.

23 Section 8. Effective date.

24 This act shall take effect in 60 days.