AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," FURTHER PROVIDING FOR EXCLUSIONS FROM TAX; <---
11 PROVIDING FOR CONTRIBUTIONS TO CERTAIN LUPUS FOUNDATIONS OF
12 REFUNDS BY CHECKOFF AND FOR A SMALL BUSINESS HEALTH CARE TAX
13 CREDIT; FURTHER PROVIDING, IN NEIGHBORHOOD ASSISTANCE TAX
14 CREDIT, FOR DEFINITIONS AND FOR GRANT OF TAX CREDIT;
15 PROVIDING FOR PENNSYLVANIA S CORPORATION SHAREHOLDER PASS-
16 THROUGH; AND phasing out inheritance and estate tax
17 provisions.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:
Section 1. The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended by adding a section to read:

SECTION 1. SECTION 204 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING A CLAUSE TO READ:

SECTION 204. EXCLUSIONS FROM TAX.—THE TAX IMPOSED BY SECTION 202 SHALL NOT BE IMPOSED UPON ANY OF THE FOLLOWING:

* * *

(66) THE SALE AT RETAIL OR USE OF SOLAR ENERGY SYSTEM EQUIPMENT DIRECTLY RELATED TO THE INSTALLATION, USE OR REPAIR OF AN ENERGY EFFICIENT SOLAR ENERGY SYSTEM. SUCH EQUIPMENT AND SYSTEMS MUST BE COMPLIANT WITH APPLICABLE NATIONAL AND INDUSTRY EQUIPMENT, INSTALLATION AND PERFORMANCE STANDARDS. THE DEPARTMENT OF REVENUE IS AUTHORIZED TO PROMULGATE REGULATIONS REGARDING THE SPECIFIC STANDARDS THAT SOLAR ENERGY SYSTEMS MUST MEET TO QUALIFY FOR THE TAX EXCLUSION. FOR THE PURPOSES OF THIS CLAUSE, "SOLAR ENERGY SYSTEM EQUIPMENT" MEANS AN ARRANGEMENT OR COMBINATION OF COMPONENTS THAT UTILIZES SOLAR RADIATION TO PRODUCE ENERGY DESIGNED TO PROVIDE HEATING, COOLING, HOT WATER AND/OR ELECTRICITY. SUCH ARRANGEMENT OR COMPONENTS SHALL NOT INCLUDE EQUIPMENT THAT IS PART OF A NONSOLAR ENERGY SYSTEM OR WHICH USES ANY SORT OF RECREATIONAL FACILITY OR EQUIPMENT AS A STORAGE MEDIUM.

SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

SECTION 315.10. CONTRIBUTIONS FOR LUPUS FOUNDATIONS.—(A) THE DEPARTMENT SHALL PROVIDE A SPACE ON THE PENNSYLVANIA INDIVIDUAL INCOME TAX RETURN FORM WHEREBY AN INDIVIDUAL MAY VOLUNTARILY DESIGNATE A CONTRIBUTION OF ANY AMOUNT DESIRED TO THE LUPUS FOUNDATION OF PENNSYLVANIA OR THE LUPUS FOUNDATION OF PENNSYLVANIA.
AMERICA, SOUTHEASTERN PA CHAPTER, INC.

(B) THE AMOUNT SO DESIGNATED BY AN INDIVIDUAL ON THE INCOME TAX RETURN FORM SHALL BE DEDUCTED FROM THE TAX REFUND TO WHICH SUCH INDIVIDUAL IS ENTITLED AND SHALL NOT CONSTITUTE A CHARGE AGAINST THE INCOME TAX REVENUES DUE THE COMMONWEALTH.

(C) THE DEPARTMENT SHALL DETERMINE ANNUALLY THE TOTAL AMOUNT DESIGNATED PURSUANT TO THIS SECTION, LESS REASONABLE ADMINISTRATIVE COSTS, AND SHALL REPORT SUCH AMOUNT TO THE STATE TREASURER, WHO SHALL TRANSFER SUCH AMOUNT FROM THE GENERAL FUND TO THE LUPUS FOUNDATION OF PENNSYLVANIA OR THE LUPUS FOUNDATION OF AMERICA, SOUTHEASTERN PA CHAPTER, INC.

SECTION 3. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ:

ARTICLE XVII-D

SMALL BUSINESS HEALTH CARE TAX CREDIT

SECTION 1701-D. SCOPE.

THIS ARTICLE RELATES TO HEALTH CARE TAX CREDITS.

SECTION 1702-D. DEFINITIONS.

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

"DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

"HEALTH CARE BENEFITS." AN ENTITLEMENT PROVIDED TO AN EMPLOYEE IN ACCORDANCE WITH A WAGE AGREEMENT THAT PROVIDES PREVENTION, TREATMENT AND MANAGEMENT OF ILLNESS AND THE PRESERVATION OF MENTAL HEALTH AND PHYSICAL WELL-BEING THROUGH THE SERVICES OFFERED BY THE MEDICAL AND ALLIED HEALTH PROFESSIONS.

"PASS-THROUGH ENTITY." ANY OF THE FOLLOWING:

(1) A PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY, BUSINESS TRUST OR OTHER UNINCORPORATED LIABILITY COMPANY, BUSINESS TRUST OR OTHER UNINCORPORATED
ENTITY THAT FOR FEDERAL INCOME TAX PURPOSES IS TAXABLE AS A PARTNERSHIP.

(2) A PENNSYLVANIA S CORPORATION.

"QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED UNDER ARTICLE III, IV OR VI. THE TERM SHALL INCLUDE THE LIABILITY FOR TAXES IMPOSED UNDER ARTICLE III ON AN OWNER OF A PASS-THROUGH ENTITY.

"SECRETARY." THE SECRETARY OF REVENUE OF THE COMMONWEALTH.

"SMALL BUSINESS." AN EMPLOYER WHO, ON AT LEAST 50% OF ITS WORKING DAYS DURING THE TAXABLE YEAR, EMPLOYED NO MORE THAN 100 EMPLOYEES.

"TAX CREDIT." THE SMALL BUSINESS HEALTH CARE TAX CREDIT AUTHORIZED UNDER THIS ARTICLE.

"TAXPAYER." AN ENTITY SUBJECT TO TAX UNDER ARTICLE III, IV OR VI. THE TERM SHALL INCLUDE THE SHAREHOLDER, OWNER OR MEMBER OF A PASS-THROUGH ENTITY THAT RECEIVES A TAX CREDIT.

SECTION 1703-D. CREDIT FOR SMALL BUSINESS HEALTH CARE.

(A) APPLICATION.--A TAXPAYER WHO IS A SMALL BUSINESS AND PROVIDES HEALTH CARE BENEFITS IN A TAXABLE YEAR MAY APPLY FOR A TAX CREDIT AS PROVIDED IN THIS ARTICLE. BY SEPTEMBER 15, A TAXPAYER MUST SUBMIT AN APPLICATION TO THE DEPARTMENT FOR HEALTH CARE BENEFITS INCURRED IN THE TAXABLE YEAR THAT ENDED IN THE PRIOR CALENDAR YEAR.

(B) AMOUNT.--A TAXPAYER THAT IS QUALIFIED UNDER SUBSECTION (A) SHALL RECEIVE A TAX CREDIT FOR THE TAXABLE YEAR IN THE AMOUNT EQUAL TO 50% OF THE AMOUNT OF EXPENSES INCURRED BY A SMALL BUSINESS FOR PROVIDING HEALTH CARE BENEFITS TO ITS EMPLOYEES, BUT NO MORE THAN $1,000 PER EMPLOYEE RECEIVING HEALTH CARE BENEFITS.

(C) NOTIFICATION.--BY DECEMBER 15 OF THE CALENDAR YEAR.
FOLLOWING THE CLOSE OF THE TAXABLE YEAR DURING WHICH THE HEALTH
CARE EXPENSE WAS INCURRED BY THE SMALL BUSINESS, THE DEPARTMENT
SHALL NOTIFY THE TAXPAYER OF THE AMOUNT OF THE TAXPAYER'S TAX
CREDIT APPROVED BY THE DEPARTMENT.

SECTION 1704-D. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT OF
CREDIT.

(A) CARRYOVER.--IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT
OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE TAX CREDIT
IS FIRST APPROVED, THEN THE EXCESS MAY BE CARRIED OVER TO
SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST THE
QUALIFIED TAX LIABILITY OF THE TAXPAYER FOR THOSE TAXABLE YEARS.
EACH TIME THAT THE TAX CREDIT IS CARRIED OVER TO A SUCCEEDING
TAXABLE YEAR, IT IS TO BE REDUCED BY THE AMOUNT THAT WAS USED AS
A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE TAX
CREDIT MAY BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE
YEARS FOR NO MORE THAN 15 TAXABLE YEARS FOLLOWING THE FIRST
TAXABLE YEAR FOR WHICH THE TAXPAYER WAS ENTITLED TO CLAIM THE
CREDIT.

(B) APPLICATION.--A TAX CREDIT APPROVED BY THE DEPARTMENT
FOR SMALL BUSINESS HEALTH CARE TAX CREDIT IN A TAXABLE YEAR
FIRST SHALL BE APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX
LIABILITY FOR THE CURRENT TAXABLE YEAR AS OF THE DATE ON WHICH
THE CREDIT WAS APPROVED BEFORE THE TAX CREDIT IS APPLIED AGAINST
ANY TAX LIABILITY UNDER SUBSECTION (A).

(C) UNUSED CREDIT.--A TAXPAYER IS NOT ENTITLED TO ASSIGN,
CARRY BACK OR OBTAIN A REFUND OF AN UNUSED TAX CREDIT.

SECTION 1705-D. SHAREHOLDER, OWNER OR MEMBER PASS-THROUGH.

(A) SHAREHOLDER CREDIT.--IF A PENNSYLVANIA S CORPORATION
DOES NOT HAVE AN ELIGIBLE TAX LIABILITY AGAINST WHICH THE TAX
CREDIT MAY BE APPLIED, A SHAREHOLDER OF THE PENNSYLVANIA S
CORPORATION IS ENTITLED TO A TAX CREDIT EQUAL TO THE TAX CREDIT DETERMINED FOR THE PENNSYLVANIA S CORPORATION FOR THE TAXABLE YEAR MULTIPLIED BY THE PERCENTAGE OF THE PENNSYLVANIA S CORPORATION'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER IS ENTITLED.

(B) PASS-THROUGH ENTITY CREDIT.--IF A PASS-THROUGH ENTITY OTHER THAN A PENNSYLVANIA S CORPORATION DOES NOT HAVE AN ELIGIBLE TAX LIABILITY AGAINST WHICH THE TAX CREDIT MAY BE APPLIED, AN OWNER OR MEMBER OF THE PASS-THROUGH ENTITY IS ENTITLED TO A TAX CREDIT EQUAL TO THE TAX CREDIT DETERMINED FOR THE PASS-THROUGH ENTITY FOR THE TAXABLE YEAR MULTIPLIED BY THE PERCENTAGE OF THE PASS-THROUGH ENTITIES' DISTRIBUTIVE INCOME TO WHICH THE OWNER OR MEMBER IS ENTITLED.

(C) ADDITIONAL CREDIT.--THE CREDIT PROVIDED UNDER SUBSECTION (A) OR (B) IS IN ADDITION TO ANY TAX CREDIT TO WHICH A SHAREHOLDER, OWNER OR MEMBER OF A PASS-THROUGH ENTITY IS OTHERWISE ENTITLED UNDER THIS ARTICLE. HOWEVER, A PASS-THROUGH ENTITY AND A SHAREHOLDER, OWNER OR MEMBER OF A PASS-THROUGH ENTITY MAY NOT CLAIM A CREDIT UNDER THIS ARTICLE FOR THE SAME SMALL BUSINESS HEALTH CARE TAX CREDIT.

SECTION 1706-D. REPORT TO GENERAL ASSEMBLY.

ANY RECOMMENDATIONS FOR CHANGES IN THE CALCULATION OR
ADMINISTRATION OF THE CREDIT.

SECTION 1707-D. REGULATIONS.

THE SECRETARY SHALL PROMULGATE REGULATIONS NECESSARY FOR THE
IMPLEMENTATION AND ADMINISTRATION OF THIS ARTICLE.

SECTION 4. THE DEFINITION OF "BUSINESS FIRM" IN SECTION
1902-A OF THE ACT, AMENDED MAY 7, 1997 (P.L.85, NO.7), IS
AMENDED TO READ:

SECTION 1902-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
CLEARLY INDICATES A DIFFERENT MEANING:

"BUSINESS FIRM." ANY BUSINESS ENTITY AUTHORIZED TO DO
BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO TAXES IMPOSED BY
ARTICLE III, IV, VI, VII, VII-A, VIII, VIII-A, IX, X OR XV OF
THIS ACT. THE TERM SHALL INCLUDE A SHAREHOLDER OF A PENNSYLVANIA
S CORPORATION WHO IS LIABLE FOR TAXES IMPOSED UNDER ARTICLE III.

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SECTION 5. SECTION 1905-A OF THE ACT, AMENDED JULY 7, 2005
(P.L.149, NO.40), IS AMENDED TO READ:

SECTION 1905-A. GRANT OF TAX CREDIT.--THE DEPARTMENT OF
REVENUE SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER
ARTICLE III, IV, VI, VII, VII-A, VIII, VIII-A, IX, X OR XV OF
THIS ACT, OR ANY TAX SUBSTITUTED IN LIEU THEREOF IN AN AMOUNT
WHICH SHALL NOT EXCEED FIFTY PER CENT OF THE TOTAL AMOUNT
INVESTED DURING THE TAXABLE YEAR BY THE BUSINESS FIRM OR TWENTY
PER CENT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY IN
PROGRAMS APPROVED PURSUANT TO SECTION 1904-A OF THIS ACT:
PROVIDED, THAT A TAX CREDIT OF UP TO SEVENTY PER CENT OF THE
TOTAL AMOUNT INVESTED DURING THE TAXABLE YEAR BY A BUSINESS FIRM
OR UP TO THIRTY PER CENT OF THE AMOUNT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY MAY BE ALLOWED FOR INVESTMENT IN PROGRAMS WHERE ACTIVITIES FALL WITHIN THE SCOPE OF SPECIAL PROGRAM PRIORITIES AS DEFINED WITH THE APPROVAL OF THE GOVERNOR IN REGULATIONS PROMULGATED BY THE SECRETARY. SUCH CREDIT SHALL NOT EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS ($250,000) ANNUALLY, EXCEPT IN THE CASE OF COMPREHENSIVE SERVICE PROJECTS WHICH SHALL BE ALLOWED AN ADDITIONAL CREDIT EQUAL TO SEVENTY PER CENT OF THE QUALIFYING INVESTMENTS MADE IN COMPREHENSIVE SERVICE PROJECTS; HOWEVER, SUCH ADDITIONAL CREDIT SHALL NOT EXCEED THREE HUNDRED FIFTY THOUSAND DOLLARS ($350,000) ANNUALLY. NO TAX CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPANY, INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS ASSOCIATION, MUTUAL SAVINGS BANK OR BUILDING AND LOAN ASSOCIATION FOR ACTIVITIES THAT ARE A PART OF ITS NORMAL COURSE OF BUSINESS. ANY TAX CREDIT NOT USED IN THE PERIOD THE INVESTMENT WAS MADE MAY BE CARRIED OVER FOR THE NEXT FIVE SUCCEEDING CALENDAR OR FISCAL YEARS UNTIL THE FULL CREDIT HAS BEEN ALLOWED. THE TOTAL AMOUNT OF ALL TAX CREDITS ALLOWED PURSUANT TO THIS ACT SHALL NOT EXCEED EIGHTEEN MILLION DOLLARS ($18,000,000) IN ANY ONE FISCAL YEAR.

SECTION 6. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

SECTION 1907-A. PENNSYLVANIA S CORPORATION SHAREHOLDER PASS-THROUGH.--(A) IF A PENNSYLVANIA S CORPORATION DOES NOT HAVE AN ELIGIBLE TAX LIABILITY AGAINST WHICH THE NEIGHBORHOOD ASSISTANCE TAX CREDIT MAY BE APPLIED, A SHAREHOLDER OF THE PENNSYLVANIA S CORPORATION IS ENTITLED TO A NEIGHBORHOOD ASSISTANCE TAX CREDIT EQUAL TO THE NEIGHBORHOOD ASSISTANCE TAX CREDIT DETERMINED FOR THE PENNSYLVANIA S CORPORATION FOR THE TAXABLE YEAR MULTIPLIED BY THE PERCENTAGE OF THE PENNSYLVANIA S CORPORATION'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER IS ENTITLED.
(B) The credit provided under subsection (a) is in addition to any neighborhood assistance tax credit to which a shareholder of a Pennsylvania S corporation is otherwise entitled under this article. However, a Pennsylvania S corporation and a shareholder of a Pennsylvania S corporation may not claim a credit under this article for the same qualified neighborhood assistance expense.

(C) The tax credits under this section shall be granted by the department to Pennsylvania S corporations and shareholders of Pennsylvania S corporations only after the tax credits under section 1905-A have been granted to business entities authorized to do business in this Commonwealth and subject to taxes imposed by article IV, VI, VII, VIII, VIII-A, IX or XV of this act.

Section 2104. Expiration.--The provisions of this article shall not apply to the estates of decedents dying on or after January 1, 2010.

Section 27. Section 2106 of the act, added August 4, 1991 (P.L.97, No.22), is amended to read:

Section 2106. Imposition of Tax.--(a) An inheritance tax for the use of the Commonwealth is imposed upon every transfer subject to tax under this article at the rates specified in section 2116.

(b) This section shall not apply to the estates of decedents dying on or after January 1, 2010.

Section 38. Section 2116(a) of the act, amended May 24, 2000 (P.L.106, No.23), is amended to read:

Section 2116. Inheritance Tax.--(a) (1) Inheritance tax upon the transfer of property passing to or for the use of [any of the following shall be at the rate of four and one-half per cent:

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(i) grandfather, grandmother, father, mother, except transfers under subclause (1.2), and lineal descendants; or

(ii) wife or widow and husband or widower of a child.

[grandfather, grandmother, father, mother, except transfers under subclause (1.2), lineal descendants, wife or widow and husband or widower of a child shall be at the rate provided in the following schedule:

(i) Four and one-half per cent for the estate of a decedent dying before or during calendar year 2008.

(ii) Two per cent for the estate of a decedent dying during calendar year 2009.

(iii) Zero per cent for the estate of a decedent dying during or after calendar year 2010.

(1.1) Inheritance tax upon the transfer of property passing to or for the use of a husband or wife shall be:

(i) At the rate of three per cent for estates of decedents dying on or after July 1, 1994, and before January 1, 1995.

(ii) At a rate of zero per cent for estates of decedents dying on or after January 1, 1995.

(1.2) Inheritance tax upon the transfer of property from a child twenty-one years of age or younger to or for the use of a natural parent, an adoptive parent or a stepparent of the child shall be at the rate of zero per cent.

(1.3) Inheritance tax upon the transfer of property passing to or for the use of a sibling shall be at the rate [of twelve per cent.] provided in the following schedule:

(i) Twelve per cent for the estate of a decedent dying before or during calendar year 2005.

(ii) Nine per cent for the estate of a decedent dying during calendar year 2006.
(iii) Six per cent for the estate of a decedent dying during calendar year 2007.

(iv) Four and one-half per cent for the estate of a decedent dying during calendar year 2008.

(v) Two per cent for the estate of a decedent dying during calendar year 2009.

(vi) Zero per cent for the estate of a decedent dying during or after calendar year 2010.

(1.4) Inheritance tax upon the transfer of property that is jointly held between a child and a natural parent, an adoptive parent or a stepparent of the child to the natural parent, adoptive parent or the stepparent shall be at the rate of zero per cent.

(2) Inheritance tax upon the transfer of property passing to or for the use of all persons other than those designated in subclause (1), (1.1), (1.2) or (1.3) or exempt under section 2111(m) shall be at the rate [of fifteen per cent.] provided in the following schedule:

(i) Fifteen per cent for the estate of a decedent dying before or during calendar year 2005.

(ii) Ten per cent for the estate of a decedent dying during calendar year 2006.

(iii) Seven per cent for the estate of a decedent dying during calendar year 2007.

(iv) Four and one-half per cent for the estate of a decedent dying during calendar year 2008.

(v) Two per cent for the estate of a decedent dying during calendar year 2009.

(vi) Zero per cent for the estate of a decedent dying during or after calendar year 2010.
(3) When property passes to or for the use of a husband and wife with right of survivorship, one of whom is taxable at a rate lower than the other, the lower rate of tax shall be applied to the entire interest.

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Section 4 9. Section 2117 of the act is amended by adding a subsection to read:

Section 2117. Estate Tax.--* * *

(d) This section shall not apply to the estates of decedents dying on or after January 1, 2010.


Section 5 11. This act shall take effect immediately.