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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2147 Session of  
2014

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INTRODUCED BY ROEBUCK, LONGIETTI, O'BRIEN, BISHOP, BROWNLEE,  
CALTAGIRONE, COHEN, EVERETT, FREEMAN, HARHAI, KINSEY, KORTZ,  
MATZIE, MCCARTER, MULLERY, NEILSON, SCHLOSSBERG, SCHREIBER,  
THOMAS, WHEATLEY AND MURT, APRIL 7, 2014

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REFERRED TO COMMITTEE ON EDUCATION, APRIL 7, 2014

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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," providing for an educational improvement  
11 opportunity tax credit.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, is amended by adding an article to  
16 read:

17 ARTICLE XVII-G.2

18 EDUCATIONAL IMPROVEMENT OPPORTUNITY TAX CREDIT

19 Section 1701-G.2. Scope of article.

20 This article establishes the educational improvement  
21 opportunity tax credit.

1 Section 1702-G.2. Definitions.

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

5 "Assessment." The Pennsylvania System of School Assessment  
6 test, the Keystone Exam, an equivalent local assessment or  
7 another test established by the State Board of Education to meet  
8 the requirements of section 2603-B(d)(10)(i) of the Public  
9 School Code of 1949 and required under the No Child Left Behind  
10 Act of 2001 (Public Law 107-110, 115 Stat. 1425) or its  
11 successor statute or any other test required to achieve other  
12 standards established by the Department of Education for the  
13 public school or school district under 22 Pa. Code § 403.3  
14 (relating to single accountability system).

15 "Business firm." An entity authorized to do business in this  
16 Commonwealth and subject to a tax under Article XVI of the act  
17 of May 17, 1921 (P.L.682, No.284), known as The Insurance  
18 Company Law of 1921, or taxes imposed under Article III, IV, VI,  
19 VII, VIII, IX or XV. The term includes a pass-through entity.

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

24 "Department." The Department of Community and Economic  
25 Development of the Commonwealth.

26 "Educational improvement initiative." An initiative  
27 implemented by a school district under section 1710-G.2.

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 educational improvement  
5 initiatives.

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 shall include a school district foundation  
12 and public school foundation.

13 "Low-achieving school." A public school that ranked in the  
14 lowest 15% of its designation as an elementary school or a  
15 secondary school based on combined mathematics and reading  
16 scores from the annual assessment administered in the previous  
17 school year and for which the Department of Education has posted  
18 results on its publicly accessible Internet website. The term  
19 does not include a charter school, cyber charter school or area  
20 vocational-technical school.

21 "Pass-through entity." A partnership as defined in section  
22 301(n.0), a single-member limited liability company treated as a  
23 disregarded entity for Federal income tax purposes or a  
24 Pennsylvania S corporation as defined in section 301(n.1).

25 "Program." The Educational Improvement Opportunity Tax  
26 Credit Program established under this article.

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

29 "Tax credit." The educational improvement opportunity tax  
30 credit provided under this article.

1 Section 1703-G.2. Qualification and application.

2 (a) Establishment.--The Educational Improvement Opportunity  
3 Tax Credit Program is established. The program shall provide tax  
4 credits to entities that provide contributions to educational  
5 improvement organizations. Contributions to the educational  
6 improvement organizations shall be used to provide grants to  
7 school districts with low-achieving schools to improve students'  
8 academic performance through educational improvement initiatives  
9 under section 1710-G.2.

10 (b) Information.--In order to qualify under this article, an  
11 educational improvement organization must submit information to  
12 the department that enables the department to confirm that the  
13 educational improvement organization is exempt from taxation  
14 under section 501(c)(3) of the Internal Revenue Code of 1986  
15 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

16 (c) Application.--An application submitted by an educational  
17 improvement organization must certify to the department that the  
18 organization is eligible to participate in the program. The  
19 application must include a description of the educational  
20 improvement initiatives under section 1710-G.2 that are being  
21 funded by the educational improvement organization. The  
22 department shall prescribe the form of the application.

23 (d) Annual certification of eligibility.--By August 15,  
24 2014, and by February 15, 2015, and each February 15 thereafter,  
25 an educational improvement organization must certify to the  
26 department that the organization is eligible to participate in  
27 the program.

28 (e) Report.--

29 (1) An educational improvement organization must agree  
30 to report the following information on a form provided by the

1 department by September 1, 2015, and each September 1  
2 thereafter:

3 (i) The names of the school districts and the low-  
4 achieving schools that received grants and the total  
5 amount of the grants made to school districts during the  
6 immediately preceding school year.

7 (ii) A description of how each grant was utilized  
8 during the immediately preceding school year and a  
9 description of any demonstrated or expected improvements  
10 in academic performance of students.

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

17 (iv) The organization's Federal Form 990 or other  
18 Federal form indicating the tax status of the  
19 organization for Federal tax purposes, if any, and a copy  
20 of a compilation, review or audit of the organization's  
21 financial statements conducted by a certified public  
22 accounting firm.

23 (2) The information required under paragraph (1) shall  
24 be submitted on a form provided by the department. No later  
25 than September 1, 2014, and May 1 of each year thereafter,  
26 the department shall annually distribute such sample forms,  
27 together with the forms on which the reports are required to  
28 be made, to each listed educational improvement organization.

29 (3) The department may not require any other information  
30 to be provided by educational improvement organizations,

1 except as expressly authorized in this article.

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

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

12 Section 1704-G.2. Tax credit application.

13 (a) Educational improvement organization.--A business firm  
14 shall apply to the department for a tax credit under section  
15 1705-G.2. A business firm shall receive a tax credit if the  
16 educational improvement organization that receives the  
17 contribution appears on the list published under section 1703-  
18 G.2(f).

19 (b) Availability of tax credits.--Tax credits shall be made  
20 available by the department on a first-come, first-served basis  
21 within the limitation established under section 1706-G.2(a).

22 (c) Contributions.--A contribution by a business firm to an  
23 educational improvement organization shall be made no later than  
24 60 days following the approval of an application under  
25 subsection (a).

26 Section 1705-G.2. Tax credit.

27 (a) Educational improvement organizations.--

28 (1) In accordance with section 1706-G.2(a), the  
29 Department of Revenue shall grant a tax credit against any  
30 tax due under Article XVI of the act of May 17, 1921

1 (P.L.682, No.284), known as The Insurance Company Law of  
2 1921, or under Article III, IV, VI, VII, VIII, IX or XV to a  
3 business firm providing proof of a contribution to an  
4 educational improvement organization in the taxable year in  
5 which the contribution is made, which shall not exceed 75% of  
6 the total amount contributed during the taxable year by the  
7 business firm.

8 (2) For the fiscal year 2014-2015 and each fiscal year  
9 thereafter, the tax credit shall not exceed \$750,000 annually  
10 per business firm for contributions made to educational  
11 improvement organizations.

12 (b) Additional amount.--

13 (1) The Department of Revenue shall grant a tax credit  
14 of up to 90% of the total amount contributed during the  
15 taxable year if the business firm provides a written  
16 commitment to provide the educational improvement  
17 organization with the same amount of contribution for two  
18 consecutive tax years.

19 (2) The business firm must provide the written  
20 commitment under this subsection to the department at the  
21 time of application.

22 (c) Combination of tax credits.--

23 (1) A business firm may receive tax credits from the  
24 Department of Revenue in any tax year for any combination of  
25 contributions under subsection (a) or (b).

26 (2) In no case may a business firm receive tax credits  
27 in any tax year in excess of \$750,000 for contributions under  
28 subsections (a) and (b) made during fiscal year 2014-2015 or  
29 any fiscal year thereafter.

30 (d) Pass-through entity.--

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

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

16       (3) The shareholder, member or partner may not carry  
17 forward, carry back, obtain a refund of or sell or assign the  
18 credit.

19       (e) Restriction on applicability of credits.--No credits  
20 granted under this section shall be applied against any tax  
21 withheld by an employer from an employee under Article III.

22       (f) Time of application for credits.--

23       (1) Except as provided in paragraph (2), the department  
24 may accept applications for tax credits available during a  
25 fiscal year no earlier than July 1 of each fiscal year.

26       (2) The application of any business firm for tax credits  
27 available during a fiscal year as part of the second year of  
28 a two-year commitment or as a renewal of a two-year  
29 commitment that was fulfilled in the previous fiscal year may  
30 be accepted no earlier than May 15 preceding the fiscal year.

1 Section 1706-G.2. Tax credit limitations.

2 (a) Amount.--The total aggregate amount of all tax credits  
3 approved shall not exceed \$50,000,000 in a fiscal year.

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

7 (c) Tax liability.--

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

11 (2) In the case of a credit granted to a pass-through  
12 entity which elects to transfer the credit according to  
13 section 1705-G.2(d), a tax credit granted for any one taxable  
14 year and transferred to a shareholder, member or partner may  
15 not exceed the tax liability of the shareholder, member or  
16 partner.

17 (d) Use.--A tax credit not used by the applicant in the  
18 taxable year the contribution was made or in the year designated  
19 by the shareholder, member or partner to whom the credit was  
20 transferred under section 1705-G.2(d) may not be carried forward  
21 or carried back and is not refundable or transferable.

22 Section 1707-G.2. Tax credit lists.

23 The Department of Revenue shall provide a list of all  
24 educational improvement organizations receiving contributions  
25 from business firms granted a tax credit under this article to  
26 the General Assembly by June 30 of each year.

27 Section 1708-G.2. Department notice.

28 By August 15, 2014, and by February 1 of each year  
29 thereafter, the department shall provide all educational  
30 improvement organizations with a list of the low-achieving

1 schools located within each school district.

2 Section 1709-G.2. List of low-achieving schools.

3 (a) List of low-achieving schools.--By September 1, 2014,  
4 and by February 1 of each year thereafter, the Department of  
5 Education shall publish on its publicly accessible Internet  
6 website and in the Pennsylvania Bulletin a list of the low-  
7 achieving schools for the following school year.

8 (b) Notice.--By August 1, 2014, and by February 1 of each  
9 year thereafter, the Department of Education shall notify every  
10 school district identified as having at least one low-achieving  
11 school of its designation and shall furnish the school district  
12 with a list of the low-achieving schools located within the  
13 school district.

14 Section 1710-G.2. Educational improvement initiatives.

15 The following initiatives designed by a school district to  
16 improve the academic performance of students in a low-achieving  
17 school in meeting State academic standards are eligible for  
18 grant funding under this article:

19 (1) Targeted tutoring in reading and mathematics  
20 provided during the normal school day to increase student  
21 academic achievement on State assessments.

22 (2) Targeted interventions, both after-school programs  
23 and summer-school programs, that include tutoring by  
24 Department of Education-approved providers, mentoring and  
25 family support for at-risk students addressing truancy,  
26 parenting skills and intensive social services.

27 (3) Other programs or activities, as approved by the  
28 Department of Education, which the board of school directors  
29 of a school district determines are essential to improving  
30 academic performance of students in a low-achieving school.

1 Section 2. This act shall take effect immediately.