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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 552      Session of  
2005

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INTRODUCED BY STERN, CORRIGAN, GEORGE, YOUNGBLOOD, GEIST,  
SATHER, THOMAS, CLYMER, WATSON, FABRIZIO, HENNESSEY,  
GODSHALL, NAILOR, DENLINGER, HUTCHINSON, READSHAW,  
BENNINGHOFF, PHILLIPS, SAINATO, GOODMAN, W. KELLER,  
HICKERNELL, ROSS, TURZAI, SHANER, GINGRICH, WANSACZ,  
CRAHALLA, MACKERETH, HERMAN, ARMSTRONG, RUBLEY, REICHLEY,  
BOYD, PICKETT, BALDWIN, HESS, R. MILLER, MUSTIO, FORCIER,  
CALTAGIRONE, HABAY, WILT, MARKOSEK, ROBERTS, R. STEVENSON,  
B. SMITH, METCALFE, HERSHEY, SOLOBAY AND CREIGHTON,  
FEBRUARY 15, 2005

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SENATOR WENGER, APPROPRIATIONS, IN SENATE, RE-REPORTED AS  
AMENDED, OCTOBER 17, 2006

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AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,  
2 as amended, "An act relating to the finances of the State  
3 government; providing for the settlement, assessment,  
4 collection, and lien of taxes, bonus, and all other accounts  
5 due the Commonwealth, the collection and recovery of fees and  
6 other money or property due or belonging to the Commonwealth,  
7 or any agency thereof, including escheated property and the  
8 proceeds of its sale, the custody and disbursement or other  
9 disposition of funds and securities belonging to or in the  
10 possession of the Commonwealth, and the settlement of claims  
11 against the Commonwealth, the resettlement of accounts and  
12 appeals to the courts, refunds of moneys erroneously paid to  
13 the Commonwealth, auditing the accounts of the Commonwealth  
14 and all agencies thereof, of all public officers collecting  
15 moneys payable to the Commonwealth, or any agency thereof,  
16 and all receipts of appropriations from the Commonwealth,  
17 authorizing the Commonwealth to issue tax anticipation notes  
18 to defray current expenses, implementing the provisions of  
19 section 7(a) of Article VIII of the Constitution of  
20 Pennsylvania authorizing and restricting the incurring of  
21 certain debt and imposing penalties; affecting every  
22 department, board, commission, and officer of the State  
23 government, every political subdivision of the State, and

1 certain officers of such subdivisions, every person,  
2 association, and corporation required to pay, assess, or  
3 collect taxes, or to make returns or reports under the laws  
4 imposing taxes for State purposes, or to pay license fees or  
5 other moneys to the Commonwealth, or any agency thereof,  
6 every State depository and every debtor or creditor of the  
7 Commonwealth," FURTHER PROVIDING FOR THE AUTHORITY TO INVEST <—  
8 AND REINVEST CERTAIN MONEYS; defining GENERAL USE PREPAID <—  
9 CARDS," "gift card," "gift certificate" and "qualified gift  
10 certificate"; AND further providing for unclaimed property+ <—  
11 ~~and providing for contributions to the Low Income Home Energy~~  
12 ~~Assistance Program from unclaimed property.~~ AND FOR PROPERTY <—  
13 HELD BY COURTS AND PUBLIC OFFICERS AND AGENCIES.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 ~~Section 1. Section 1301.1 of the act of April 9, 1929 <—~~  
17 ~~(P.L.343, No.176), known as The Fiscal Code, is amended by~~  
18 ~~adding definitions to read:~~

19 SECTION 1. SECTION 301.1(I) OF THE ACT OF APRIL 9, 1929 <—  
20 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, AMENDED NOVEMBER  
21 30, 2004 (P.L.1725, NO.220), IS AMENDED TO READ:

22 SECTION 301.1. INVESTMENT OF MONEYS.--\* \* \*

23 (I) (1) NOTWITHSTANDING SUBSECTIONS (A) THROUGH (H), THE  
24 TREASURY DEPARTMENT SHALL HAVE THE EXCLUSIVE MANAGEMENT AND FULL  
25 POWER TO INVEST AND REINVEST THE MONEYS OF ANY FUND AS SHALL BE  
26 ACCUMULATED BEYOND THE ORDINARY NEEDS OF THE VARIOUS FUNDS AND  
27 WHICH ARE NOT AUTHORIZED BY LAW TO BE INVESTED BY ANY BOARD,  
28 COMMISSION OR STATE OFFICER, SUBJECT, HOWEVER, TO THE EXERCISE  
29 OF THAT DEGREE OF JUDGMENT AND CARE UNDER THE CIRCUMSTANCES THEN  
30 PREVAILING WHICH PERSONS OF PRUDENCE, DISCRETION AND  
31 INTELLIGENCE WHO ARE FAMILIAR WITH SUCH MATTERS EXERCISE IN THE  
32 MANAGEMENT OF THEIR OWN AFFAIRS NOT IN REGARD TO SPECULATION BUT  
33 IN REGARD TO THE PERMANENT DISPOSITION OF THE FUNDS, CONSIDERING  
34 THE PROBABLE INCOME TO BE DERIVED THEREFROM AS WELL AS THE  
35 PROBABLE SAFETY OF THEIR CAPITAL. THE TREASURY DEPARTMENT SHALL  
36 HAVE THE POWER TO HOLD, PURCHASE, SELL, ASSIGN, TRANSFER AND

1 DISPOSE OF ANY SECURITIES, INCLUDING EQUITY SECURITIES AND  
2 MUTUAL FUNDS CONSISTING IN WHOLE OR IN PART OF EQUITY  
3 SECURITIES, AND INVESTMENTS IN ANY SUCH FUND AS WELL AS THE  
4 PROCEEDS OF SUCH INVESTMENTS AND OF THE MONEY BELONGING TO ANY  
5 SUCH FUND. THE TREASURY DEPARTMENT SHALL, THROUGH THE GOVERNOR,  
6 SUBMIT TO THE GENERAL ASSEMBLY ANNUALLY, AT THE SAME TIME THE  
7 TREASURY DEPARTMENT SUBMITS ITS BUDGET COVERING ADMINISTRATIVE  
8 EXPENSES, A REPORT IDENTIFYING THE NATURE AND AMOUNT OF ALL  
9 EXISTING INVESTMENTS MADE PURSUANT TO THIS SECTION.

10 (2) THE AUTHORITY TO INVEST OR REINVEST THE MONEYS OF ANY  
11 FUND PURSUANT TO THIS SUBSECTION SHALL ~~EXPIRE~~ DECEMBER 31, <—  
12 ~~[2006]~~ 2008. THE TREASURY DEPARTMENT MAY MAINTAIN INVESTMENTS <—  
13 PURSUANT TO THIS SUBSECTION WHICH ARE IN EXISTENCE ON THE  
14 EXPIRATION DATE IN THIS PARAGRAPH FOR NOT MORE THAN TWO YEARS  
15 FOLLOWING SUCH EXPIRATION DATE. ~~CONTINUE UNLESS SPECIFICALLY~~ <—  
16 ~~REPEALED BY AMENDMENT TO THIS ACT.~~

17 SECTION 2. SECTION 1301.1 OF THE ACT IS AMENDED BY ADDING  
18 DEFINITIONS TO READ:

19 Section 1301.1. Definitions.--As used in this article,  
20 unless the context otherwise requires:

21 \* \* \*

22 "General use prepaid cards" shall mean cards issued only by a  
23 bank or other similarly regulated financial institutions, or by  
24 a licensed money transmitter and shall mean plastic cards or  
25 other electronic payment devices which are:

26 (1) usable AND HONORED UPON PRESENTATION at multiple, <—  
27 unaffiliated merchants or service providers FOR GOODS OR <—  
28 SERVICES or at automated teller machines (ATMs); AND <—

29 (2) issued in a requested PREPAID amount which amount may <—  
30 be, at the option of the issuer, increased in value or reloaded

1 if requested by the holder;

<—

2 ~~(3) purchased or loaded on a prepaid basis by a consumer or~~  
3 ~~by a business entity; and~~

4 ~~(4) honored upon presentation by merchants for goods or~~  
5 ~~services or at ATMs. HOLDER.~~

<—

6 The term shall not include debit cards linked to a deposit  
7 account or prepaid telephone calling cards. The term also shall  
8 not include flexible spending arrangements, including health  
9 reimbursement arrangements, as defined in section 106(c)(2) of  
10 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
11 § 106(c)(2)); flexible spending accounts subject to section 125  
12 of the Internal Revenue Code of 1986; Archer MSAs as defined in  
13 section 220(d) of the Internal Revenue Code of 1986; dependent  
14 care reimbursement accounts subject to section 129 of the  
15 Internal Revenue Code of 1986; health savings accounts subject  
16 to section 223(d) of the Internal Revenue Code of 1986; or  
17 similar accounts from which, under the Internal Revenue Code of  
18 1986 and its implementing regulations, individuals may pay  
19 medical expenses, health care expenses, dependent care expenses  
20 or similar expenses on a pretax basis.

21 "Gift card" shall mean plastic cards or other electronic  
22 payment devices which are:

23 ~~(i) useable at a single merchant or an affiliated group of~~  
24 ~~merchants sharing the same name, mark or logo;~~

<—

25 ~~(ii) issued in a specified amount and may or may not be~~  
26 ~~increased in value or reloaded;~~

27 ~~(iii) purchased on a prepaid basis by a consumer in exchange~~  
28 ~~for payment; and~~

29 ~~(iv) honored upon presentation by such single merchant or~~  
30 ~~affiliated group of merchants for goods or services.~~

1        (I)    USABLE AND HONORED UPON PRESENTATION AT A SINGLE        <—  
2   MERCHANT OR AN AFFILIATED GROUP OR MERCHANTS THAT SHARE THE SAME  
3   NAME, MARK OR LOGO, OR USABLE AT MULTIPLE, UNAFFILIATED  
4   MERCHANTS OR SERVICE PROVIDERS FOR THE FUTURE PURCHASE OR  
5   DELIVERY OF ANY GOODS OR SERVICES; AND

6        (II)    ISSUED IN A SPECIFIED PREPAID AMOUNT AND MAY OR MAY NOT  
7   BE INCREASED IN VALUE OR RELOADED.

8   The term shall not include GENERAL USE PREPAID CARDS OR debit        <—  
9   cards linked to a deposit account. The term also shall not  
10   include flexible spending arrangements including health  
11   reimbursement arrangements, as defined in section 106(c)(2) of  
12   the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
13   § 106(c)(2)); flexible spending accounts subject to section 125  
14   of the Internal Revenue Code of 1986; Archer MSAs as defined in  
15   section 220(d) of the Internal Revenue Code of 1986; dependent  
16   care reimbursement accounts subject to section 129 of the  
17   Internal Revenue Code of 1986; health savings accounts subject  
18   to section 223(d) of the Internal Revenue Code of 1986; or  
19   similar accounts from which, under the Internal Revenue Code and  
20   its implementing regulations, individuals may pay medical  
21   expenses, health care expenses, dependent care expenses or  
22   similar expenses on a pretax basis.

23        "Gift certificate" shall mean a written promise ~~or electronic~~        <—  
24   ~~payment device that~~; WHICH IS:        <—

25        (i)   ~~is useable~~ USABLE AND HONORED UPON PRESENTATION at a        <—  
26   single merchant or an affiliated group of merchants that share  
27   the same name, mark or logo, or usable at multiple, unaffiliated  
28   merchants or service ~~providers~~; PROVIDERS FOR THE FUTURE        <—  
29   PURCHASE OR DELIVERY OF ANY GOODS OR SERVICES; AND

30        (ii) ~~is issued in a specified amount~~;        <—

1        (II) ISSUED IN A SPECIFIC PREPAID AMOUNT AND MAY OR MAY NOT <—  
2 BE INCREASED IN VALUE OR RELOADED.

3        ~~(iii) may or may not be increased in value or reloaded;~~ <—  
4        ~~(iv) is purchased or loaded on a prepaid basis for the~~  
5 ~~future purchase or delivery of any goods or services; and~~  
6        ~~(v) is honored upon presentation.~~

7 The term shall not include GENERAL USE PREPAID CARDS OR debit <—  
8 cards linked to a deposit account. The term also shall not  
9 include flexible spending arrangements, including health  
10 reimbursement arrangements, as defined in section 106(c)(2) of  
11 the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.  
12 § 106(c)(2)); flexible spending accounts subject to section 125  
13 of the Internal Revenue Code of 1986; Archer MSAs as defined in  
14 section 220(d) of the Internal Revenue Code of 1986; dependent  
15 care reimbursement accounts subject to section 129 of the  
16 Internal Revenue Code of 1986; health savings accounts subject  
17 to section 223(d) of the Internal Revenue Code of 1986; or  
18 similar accounts from which, under the Internal Revenue Code and  
19 its implementing regulations, individuals may pay medical  
20 expenses, health care expenses, dependent care expenses or  
21 similar expenses on a pretax basis.

22        \* \* \*

23        "Qualified gift certificate" shall mean a gift certificate or  
24 gift card that does not contain any of the following:

25        (i) An expiration date or a period of time after which it  
26 expires.

27        (ii) Any type of postsale charge or fee, including, but not  
28 limited to, a service charge, dormancy fee, account maintenance  
29 fee, cash out fee, replacement card fee or activation or  
30 reactivation fee.

1 ~~The term does~~ SHALL not include general use prepaid cards. <—

2 \* \* \*

3 Section ~~2~~ 3. Clause 1 of section 1301.6 of the act, amended <—  
4 June 29, 2002 (P.L.614, No.91), is amended to read:

5 Section 1301.6. Property Held by Business Associations.--The  
6 following property held or owing by a business association is  
7 presumed abandoned and unclaimed:

8 1. The consideration paid for a gift certificate or gift  
9 card which has remained unredeemed for two (2) years or more  
10 after its redemption period has expired or for five (5) years or  
11 more from the date of issuance if no redemption period is  
12 specified. The provisions of this clause shall not apply to a  
13 qualified gift certificate.

14 \* \* \*

15 ~~Section 3. The act is amended by adding a section to read:~~ <—

16 ~~Section 1301.19a. Contributions to LIHEAP from Unclaimed~~  
17 ~~Property. (a) The State Treasurer shall promulgate regulations~~  
18 ~~allowing any person claiming an interest in any property paid or~~  
19 ~~delivered to the Commonwealth under this article to donate the~~  
20 ~~total cash value of such property to LIHEAP.~~

21 ~~(b) As used in this section, the term "LIHEAP" shall mean~~  
22 ~~the program established by Title XXVI of the Omnibus Budget~~  
23 ~~Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 893 et~~  
24 ~~seq.) and administered by the Department of Public Welfare.~~

25 ~~Section 3. This act shall take effect in 60 days.~~

26 SECTION 4. SECTION 1301.9 OF THE ACT, AMENDED DECEMBER 23, <—  
27 2003 (P.L.243, NO.45), IS AMENDED TO READ:

28 SECTION 1301.9. PROPERTY HELD BY COURTS AND PUBLIC OFFICERS  
29 AND AGENCIES.--THE FOLLOWING PROPERTY IS PRESUMED ABANDONED AND  
30 UNCLAIMED:

1        1.    EXCEPT AS PROVIDED IN [CLAUSE 2 OR 6] CLAUSES 2 AND 2.1  
2 OR CLAUSE 6, ALL PROPERTY HELD FOR THE OWNER BY ANY COURT,  
3 PUBLIC CORPORATION, PUBLIC AUTHORITY OR INSTRUMENTALITY OF THE  
4 UNITED STATES, THE COMMONWEALTH, OR ANY OTHER STATE, OR BY A  
5 PUBLIC OFFICER OR POLITICAL SUBDIVISION THEREOF, UNCLAIMED BY  
6 THE OWNER FOR MORE THAN FIVE (5) YEARS FROM THE DATE IT FIRST  
7 BECAME DEMANDABLE OR DISTRIBUTABLE.

8        2.    BICYCLES HELD FOR THE OWNER BY A MUNICIPALITY UNCLAIMED  
9 BY THE OWNER FOR MORE THAN NINETY (90) DAYS FROM THE DATE IT  
10 FIRST BECAME DEMANDABLE OR DISTRIBUTABLE.

11        2.1.    ALL TANGIBLE PROPERTY, OTHER THAN BICYCLES, HELD FOR  
12 THE OWNER BY A MUNICIPALITY UNCLAIMED BY THE OWNER FOR MORE THAN  
13 THREE (3) YEARS FROM THE DATE IT FIRST BECAME DEMANDABLE OR  
14 DISTRIBUTABLE.

15        3.    THE BICYCLES HELD PURSUANT TO CLAUSE 2 AND TANGIBLE  
16 PROPERTY HELD PURSUANT TO CLAUSE 2.1 AND WHICH THE STATE  
17 TREASURER REFUSES IN WRITING TO ACCEPT MAY BE DISPOSED OF BY THE  
18 MUNICIPALITY TO THE HIGHEST BIDDER AFTER DUE NOTICE BY  
19 ADVERTISEMENT FOR BIDS OR AT PUBLIC AUCTION AT SUCH TIME AND  
20 PLACE AS MAY BE DESIGNATED BY THE MUNICIPALITY OR THE GOVERNING  
21 BODY MAY, BY RESOLUTION, DONATE THE BICYCLES OR SUCH TANGIBLE  
22 PROPERTY TO A CHARITABLE ORGANIZATION. ANY PROCEEDS FROM THE  
23 SALE OF THE BICYCLES OR SUCH TANGIBLE PROPERTY SHALL BE RETAINED  
24 BY THE MUNICIPALITY AND USED FOR MUNICIPAL PURPOSES.

25        4.    BICYCLES HELD BY OR ACQUIRED BY THE COMMONWEALTH FOR  
26 NINETY (90) DAYS MAY BE DISPOSED OF AT PUBLIC AUCTION AT SUCH  
27 TIME AND PLACE AS MAY BE DESIGNATED BY THE STATE TREASURER.  
28 PROCEEDS OF SUCH SALE OR SALES SHALL BE DEPOSITED IN THE GENERAL  
29 FUND.

30        5.    ALL PROPERTY HELD BY OR SUBJECT TO THE CONTROL OF ANY



1 COURT, PUBLIC CORPORATION, PUBLIC AUTHORITY OR INSTRUMENTALITY  
2 OF THE COMMONWEALTH OR BY A PUBLIC OFFICER OR POLITICAL  
3 SUBDIVISION THEREOF, WHICH IS WITHOUT A RIGHTFUL OR LAWFUL  
4 OWNER, TO THE EXTENT NOT OTHERWISE PROVIDED FOR BY LAW, HELD FOR  
5 MORE THAN ONE YEAR.

6 6. RESTITUTION HELD FOR THE OWNER BY ANY COURT, PUBLIC  
7 CORPORATION, PUBLIC AUTHORITY OR INSTRUMENTALITY OF THE  
8 COMMONWEALTH, OR BY A PUBLIC OFFICER OR POLITICAL SUBDIVISION  
9 THEREOF, UNCLAIMED BY THE OWNER FOR MORE THAN FIVE (5) YEARS  
10 FROM THE DATE IT FIRST BECAME DEMANDABLE OR DISTRIBUTABLE.

11 SECTION 4 5. THIS ACT SHALL APPLY TO GIFT CARDS AND GIFT <—  
12 CERTIFICATES REPORTED TO THE COMMONWEALTH FOR THE YEAR 2006 AND  
13 EACH YEAR THEREAFTER.

14 ~~SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.~~ <—

15 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: <—

16 (1) THE AMENDMENT OF SECTION 1301.9 OF THE ACT SHALL  
17 TAKE EFFECT IN 60 DAYS.

18 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
19 IMMEDIATELY.