## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL No. 1347 Session of 2011

INTRODUCED BY REESE, EVANKOVICH, KRIEGER, DUNBAR, AUMENT, BAKER, BLOOM, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, CUTLER, DAY, DELOZIER, DENLINGER, GABLER, GINGRICH, GRELL, GROVE, HELM, HUTCHINSON, KAUFFMAN, KILLION, MAJOR, MARSHALL, METCALFE, METZGAR, MILLARD, MILLER, MILNE, MOUL, MURT, OBERLANDER, PEIFER, PETRARCA, PICKETT, PYLE, QUIGLEY, RAPP, REED, REICHLEY, ROAE, ROCK, SACCONE, SAYLOR, SCAVELLO, SCHRODER, SIMMONS, SONNEY, STERN, STEVENSON, TALLMAN, TURZAI, VEREB, VULAKOVICH, WATSON AND GIBBONS, APRIL 13, 2011

REFERRED TO COMMITTEE ON FINANCE, APRIL 13, 2011

## AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An 1 act relating to tax reform and State taxation by codifying 2 3 and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, 4 collection, administration and enforcement thereof; providing 5 for tax credits in certain cases; conferring powers and 6 imposing duties upon the Department of Revenue, certain 7 employers, fiduciaries, individuals, persons, corporations 8 9 and other entities; prescribing crimes, offenses and penalties," in corporate net income, further providing for 10 the definition of "taxable income." 11 12 The General Assembly of the Commonwealth of Pennsylvania 13 hereby enacts as follows: 14 Section 1. Section 401(3)4(c) of the act of March 4, 1971 15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended 16 October 9, 2009 (P.L.451, No.48), is amended to read: 17 Section 401. Definitions. -- The following words, terms, and 18 phrases, when used in this article, shall have the meaning

1 ascribed to them in this section, except where the context
2 clearly indicates a different meaning:

3 \* \* \*

4 (3) "Taxable income." \* \* \*

5 4. \* \* \*

6 (c) (1) The net loss deduction shall be the lesser of:
7 (A) (I) For taxable years beginning before January 1, 2007,
8 two million dollars (\$2,000,000);

9 (II) For taxable years beginning after December 31, 2006, 10 the greater of twelve and one-half per cent of taxable income as 11 determined under subclause 1 or, if applicable, subclause 2 or 12 three million dollars (\$3,000,000);

13 (III) For taxable years beginning after December 31, 2008, 14 the greater of fifteen per cent of taxable income as determined 15 under subclause 1 or, if applicable, subclause 2 or three 16 million dollars (\$3,000,000);

(IV) For taxable years beginning after December 31, 2009, the greater of twenty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000); [or]

(V) For taxable years beginning after December 31, 2010, the
 greater of twenty per cent of taxable income as determined under
 subclause 1 or, if applicable, subclause 2 or five million

24 <u>dollars (\$5,000,000);</u>

25 (VI) For taxable years beginning after December 31, 2011,
26 the greater of twenty per cent of taxable income as determined
27 under subclause 1 or, if applicable, subclause 2 or seven

28 <u>million dollars (\$7,000,000);</u>

(VII) For taxable years beginning after December 31, 2012,
 the greater of twenty per cent of taxable income as determined

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2       dollars (\$10,000,000); or         3       (VIII) For taxable years bedinning after December 31, 2013.         4       taxable income as determined under subclause 1 or, if         5       applicable, subclause 2; or         6       (B) The amount of the net loss or losses which may be         7       carried over to the taxable year or taxable income as determined         8       under subclause 1 or, if applicable, subclause 2.         9       (1.1) In no event shall the net loss deduction include more         10       than five hundred thousand dollars (\$500,000), in the aggregate,         11       of net losses from taxable years 1968 through 1994.         12       (2) (A) A net loss for a taxable year may only be carried         13       over pursuant to the following schedul:         14       Taxable Year       Carryover         15       1981       1 taxable years         16       1982       2 taxable years plus 1         17       1983-1987       3 taxable years         18       1988       2 taxable year starting         with the 1995 taxable       year         22       1989       1 taxable years starting         23       usable years       year         24       1990-1993       3 taxable years starting	1	under subclause 1 or, if applicable,	subclause 2 or ten million
4       taxable income as determined under subclause 1 or, if         5       applicable, subclause 2; or         6       (B) The amount of the net loss or losses which may be         7       carried over to the taxable year or taxable income as determined         8       under subclause 1 or, if applicable, subclause 2.         9       (1.1) In no event shall the net loss deduction include more         10       than five hundred thousand dollars (\$500,000), in the aggregate,         11       of net losses from taxable years 1988 through 1994.         12       (2) (A) A net loss for a taxable year may only be carried         13       over pursuant to the following schedule:         14       Taxable Year       Carryover         15       1981       1 taxable years         16       1982       2 taxable years         17       1983-1987       3 taxable years plus 1         18       1988       2 taxable year starting         20       with the 1995 taxable       year         21       1989       1 taxable year starting         22       1989       1 taxable years starting         23       taxable years starting       year         24       1990-1993       3 taxable years starting         25       year	2	<u>dollars (\$10,000,000); or</u>	
5       applicable, subclause 2; or         6       (B) The amount of the net loss or losses which may be         7       carried over to the taxable year or taxable income as determined         8       under subclause 1 or, if applicable, subclause 2.         9       (1.1) In no event shall the net loss deduction include more         10       than five hundred thousand dollars (\$500,000), in the aggregate,         11       of net losses from taxable years 1988 through 1994.         12       (2) (A) A net loss for a taxable year may only be carried         13       over pursuant to the following schedut         14       Taxable Year       Carryover         15       1981       1 taxable years         16       1982       2 taxable years         17       1983-1987       3 taxable years plus 1         18       1988       2 taxable year starting         19	3	(VIII) For taxable years beginni	ng after December 31, 2013,
6(B) The amount of the net loss or losses which may be7carried over to the taxable year or taxable income as determined8under subclause 1 or, if applicable, subclause 2.9(1.1) In no event shall the net loss deduction include more10than five hundred thousand dollars (\$500,000), in the aggregate,11of net losses from taxable years 1988 through 1994.12(2)(A) A net loss for a taxable year may only be carried13over pursuant to the following schedule:14Taxable Year1519811 taxable years1619822 taxable years171983-19873 taxable year splus 119taxable year starting20with the 1995 taxable2119891 taxable year splus 22319891 taxable years starting24year251990-19933 taxable years starting261990-19933 taxable year starting2719811 taxable year starting2819941 taxable year	4	taxable income as determined under s	ubclause 1 or, if
7       carried over to the taxable year or taxable income as determined         8       under subclause 1 or, if applicable, subclause 2.         9       (1.1) In no event shall the net loss deduction include more         10       than five hundred thousand dollars (\$500,000), in the aggregate,         11       of net losses from taxable years 1988 through 1994.         12       (2) (A) A net loss for a taxable year may only be carried         13       over pursuant to the following schedule:         14       Taxable Year       Carryover         15       1981       1 taxable years         16       1982       2 taxable years         17       1983-1987       3 taxable year splus 1         19       taxable year starting         20       1989       1 taxable year splus 1         19       taxable year starting         21       year         22       1989       1 taxable year starting         24       year         25       year         26       1990-1993       3 taxable years starting         26       1990-1993       3 taxable year starting         27       year       year         28       year       year         29       1994	5	applicable, subclause 2; or	
<ul> <li>8 under subclause l or, if applicable, subclause 2.</li> <li>9 (1.1) In no event shall the net loss deduction include more</li> <li>10 than five hundred thousand dollars (\$500,000), in the aggregate,</li> <li>11 of net losses from taxable years 1988 through 1994.</li> <li>12 (2) (A) A net loss for a taxable year may only be carried</li> <li>13 over pursuant to the following schedul:</li> <li>14 Taxable Year Carryover</li> <li>15 1981 1 taxable years</li> <li>16 1982 2 taxable years</li> <li>17 1983-1987 3 taxable years plus 1</li> <li>19 taxable Year year</li> <li>20 with the 1995 taxable</li> <li>21 year</li> <li>22 1989 1 taxable year starting</li> <li>23 taxable years starting</li> <li>24 year</li> <li>25 1990-1993 3 taxable years starting</li> <li>26 1990-1993 3 taxable years starting</li> <li>27 with the 1995 taxable</li> <li>28 year</li> <li>29 1994 1 taxable year</li> </ul>	6	(B) The amount of the net loss o	r losses which may be
<ul> <li>9 (1.1) In no event shall the net loss deduction include more</li> <li>10 than five hundred thousand dollars (\$500,000), in the aggregate,</li> <li>11 of net losses from taxable years 1988 through 1994.</li> <li>12 (2) (A) A net loss for a taxable year may only be carried</li> <li>13 over pursuant to the following schedul:</li> <li>14 Taxable Year Carryover</li> <li>15 1981 1 taxable years</li> <li>16 1982 2 taxable years</li> <li>17 1983-1987 3 taxable years plus 1</li> <li>19 taxable year</li> <li>1988 2 taxable years plus 1</li> <li>19 taxable year starting</li> <li>20 with the 1995 taxable</li> <li>21 1989 1 taxable year plus 2</li> <li>23 taxable years starting</li> <li>24 year</li> <li>25 1990-1993 3 taxable years starting</li> <li>26 1990-1993 3 taxable years starting</li> <li>27 with the 1995 taxable</li> <li>28 1994 1 taxable year</li> </ul>	7	carried over to the taxable year or	taxable income as determined
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11of net losses from taxable years 1988 through 1994.12(2) (A) A net loss for a taxable year may only be carried13over pursuant to the following schedul:14Taxable YearCarryover1519811 taxable year1619822 taxable years171983-19873 taxable years plus 11819882 taxable years plus 119yearyear20yearyear2119891 taxable year starting2219891 taxable years starting23yearyear24yearyear251990-19933 taxable years starting261990-19933 taxable years starting27yearyear2819941 taxable year	9	(1.1) In no event shall the net	loss deduction include more
12       (2) (A) A net loss for a taxable year may only be carried         13       over pursuant to the following schedule:         14       Taxable Year       Carryover         15       1981       1 taxable year         16       1982       2 taxable years         17       1983-1987       3 taxable years plus 1         18       1988       2 taxable years plus 1         19       taxable year starting         20       with the 1995 taxable         21       year         22       1989       1 taxable year starting         24       year         25       year       1990-1993         26       1990-1993       3 taxable years starting         27       1990-1993       3 taxable years starting         28       year       1 taxable year starting         29       1994       1 taxable year	10	than five hundred thousand dollars (	\$500,000), in the aggregate,
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28         year           29         1994         1 taxable year	26	1990-1993	3 taxable years starting
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-	28		year
30 1995-1997 10 taxable years	29	1994	1 taxable year
	30	1995-1997	10 taxable years

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1998 and thereafter 20 taxable years

1

2 The earliest net loss shall be carried over to the (B) 3 earliest taxable year to which it may be carried under this schedule. The total net loss deduction allowed in any taxable 4 year shall not exceed: 5

Two million dollars (\$2,000,000) for taxable years 6 (I) 7 beginning before January 1, 2007.

8 (II) The greater of twelve and one-half per cent of the 9 taxable income as determined under subclause 1 or, if 10 applicable, subclause 2 or three million dollars (\$3,000,000) 11 for taxable years beginning after December 31, 2006.

12 The greater of fifteen per cent of the taxable income (III) 13 as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000) for taxable years 14 15 beginning after December 31, 2008.

16 The greater of twenty per cent of the taxable income as (IV) determined under subclause 1 or, if applicable, subclause 2 or 17 18 three million dollars (\$3,000,000) for taxable years beginning 19 after December 31, 2009.

20 (V) The greater of twenty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or 21 five million dollars (\$5,000,000) for taxable years beginning 22 23 after December 31, 2010.

24 (VI) The greater of twenty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or 25 26 seven million dollars (\$7,000,000) for taxable years beginning after December 31, 2011. 27

28 (VII) The greater of twenty per cent of taxable income as 29 determined under subclause 1 or, if applicable, subclause 2 or ten million dollars (\$10,000,000) for taxable years beginning 30

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1 after December 31, 2012.

2	(VIII) For taxable years beginning after December 31, 2013,	
3	taxable income as determined under subclause 1 or, if	
4	<u>applicable, subclause 2.</u>	
5	* * *	
6	Section 2. This act shall take effect immediately.	