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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1708 Session of  
2011

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INTRODUCED BY CHRISTIANA, TURZAI, PAYTON, COX, BLOOM, MICOZZIE,  
QUIGLEY, SIMMONS, SWANGER AND WHEATLEY, JUNE 21, 2011

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REFERRED TO COMMITTEE ON EDUCATION, JUNE 21, 2011

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AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," providing for opportunity  
6 scholarships; establishing the educational improvement tax  
7 credit; and making related repeals.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
11 as the Public School Code of 1949, is amended by adding an  
12 article to read:

13 ARTICLE XXV-B

14 STUDENTS AND SCHOOLS RESCUE ACT

15 (a) Preliminary Provisions

16 Section 2501-B. Short title of article.

17 This article shall be known and may be cited as the Students  
18 and Schools Rescue Act.

19 Section 1501.1-B. Scope of article.

20 This article relates to opportunity scholarships and

1 educational improvement tax credits.

2 (b) Opportunity Scholarships

3 Section 2501.2-B. Legislative findings.

4 The General Assembly finds that:

5 (1) Pursuant to section 14 of Article III of the  
6 Constitution of Pennsylvania, the General Assembly has the  
7 responsibility to provide for the maintenance and support of  
8 a thorough and efficient system of public education to serve  
9 the needs of this Commonwealth.

10 (2) Parents are best suited to choose the most  
11 appropriate means of education for their school-age children.

12 (3) Providing diverse educational opportunities for the  
13 children of this Commonwealth is a civic and civil rights  
14 imperative and a matter of serious concern.

15 (4) The importance of providing educational choices that  
16 will meet the needs of parents, and the need to maintain and  
17 support an effective system of education, make it imperative  
18 to provide for the increased availability of diverse  
19 opportunities, including both public and nonpublic programs  
20 of education, to benefit all citizens of this Commonwealth.

21 (5) Public schools are the foundation of the system of  
22 education in this Commonwealth. Further, Pennsylvania's  
23 longstanding tradition of local control of public education  
24 allows communities to adapt their public school programs to  
25 meet local needs. For these reasons, a robust program of  
26 interdistrict school choice is a critical means of providing  
27 families with increased educational options within the  
28 traditional public school system.

29 (6) The accessibility to families of nonpublic  
30 educational alternatives decreases the burden on the

1 Commonwealth and local school districts and increases the  
2 range of educational choices available to Pennsylvania  
3 families, thus providing a benefit to all citizens of this  
4 Commonwealth.

5 (7) It is the long-term goal of the General Assembly to  
6 offer assistance to all families in this Commonwealth, so as  
7 to provide every child in this Commonwealth with diverse  
8 educational opportunities and options.

9 (8) As an initial step toward the long-term goal of  
10 offering assistance to all Pennsylvania families, this  
11 subarticle provides assistance to disadvantaged school-age  
12 children in this Commonwealth who would otherwise attend low  
13 achieving schools.

14 (9) Many disadvantaged school-age children in this  
15 Commonwealth enjoy comparatively fewer educational  
16 opportunities or options than school-age children who possess  
17 greater economic means.

18 (10) The programs of educational choice provided in this  
19 subarticle are elements of an overall program of providing  
20 funds to increase the availability of educational  
21 opportunities for school-age children in this Commonwealth.

22 (11) A comparatively far greater proportion of public  
23 funds are and, upon implementation of an educational choice  
24 program, will continue to be devoted to the benefit of  
25 children enrolled in the public schools of this Commonwealth.  
26 An opportunity scholarship program that offers assistance to  
27 parents who choose to enroll their children in participating  
28 nonpublic schools should be viewed as an integral part of the  
29 Commonwealth's overall program of educational funding and not  
30 as an isolated individual program.

1           (12) A program of financial assistance to enhance  
2           educational choice in this Commonwealth, as one element of  
3           the Commonwealth's plan for the funding of diverse  
4           educational opportunities for the citizens of this  
5           Commonwealth, will better prepare Commonwealth citizens to  
6           compete for employment opportunities, will foster development  
7           of a more capable and better-educated work force and will  
8           better enable the Commonwealth to fulfill its obligation of  
9           providing children with the opportunity to receive a quality  
10          education.

11 Section 2502-B. Definitions.

12          The following words and phrases when used in this subarticle  
13          shall have the meanings given to them in this section unless the  
14          context clearly indicates otherwise:

15          "Assessment." The Pennsylvania System of School Assessment  
16          test, the Keystone Exam, an equivalent local assessment or  
17          another test established by the State Board of Education to meet  
18          the requirements of section 2603-B(d)(10)(i) and required under  
19          the No Child Left Behind Act of 2001 (Public Law 107-110, 115  
20          Stat. 1425) or its successor Federal statute or required to  
21          achieve other standards established by the department for the  
22          public school or school district under 22 Pa. Code § 403.3  
23          (relating to single accountability system).

24          "Average daily membership." A school district's average  
25          daily membership as defined in section 2501(3).

26          "Board." The Education Opportunity Board established under  
27          this subarticle.

28          "Department." The Department of Education of the  
29          Commonwealth.

30          "Elementary school." A school that does not have an eleventh

1 grade.

2 "Federal poverty line." The official Federal poverty line as  
3 defined in section 673(2) of Subtitle B of the Community  
4 Services Block Grant Act (Public Law 97-35, 95 Stat. 511), as  
5 adjusted from time to time.

6 "Household income." Income as used for the purposes of  
7 determining eligibility for a free lunch under the Richard B.  
8 Russell National School Lunch Act (60 Stat. 230, 1751 et seq.).

9 "Kindergarten." A one-year formal kindergarten program that  
10 occurs during the school year immediately prior to first grade.

11 "Local scholarship." A scholarship that is both:

12 (1) Funded by a percentage of the low-income child's  
13 resident school district's total local revenue per average  
14 daily membership as specified by the resident school  
15 district; provided, however, that once a percentage is  
16 established for a local scholarship recipient such percentage  
17 may not be decreased..

18 (2) Applied toward the low-income child's tuition to  
19 attend a nonresident public school.

20 "Low achieving school." A public elementary or secondary  
21 school within this Commonwealth ranking in the lowest 10% of its  
22 designation as elementary or secondary, based on combined math  
23 and reading scores from the most recent assessment for which  
24 data is posted on the department's publicly accessible Internet  
25 website. The term shall not include a charter school, cyber  
26 charter school, area vocational-technical school, magnet school  
27 or school that does not draw its student body from a particular  
28 attendance boundary and any school with specialized academic  
29 programs with specific admission criteria.

30 "Low-income child." A school-age child with a household

1 income that does not exceed 2.5 times the Federal poverty line  
2 for the school year preceding the school year for which an  
3 opportunity scholarship is to be distributed.

4 "Nonpublic school." A school, other than a public school,  
5 located within this Commonwealth where a Commonwealth resident  
6 may legally fulfill the compulsory school attendance  
7 requirements of this act and that meets the applicable  
8 requirements of Title VI of the Civil Rights Act of 1964 (Public  
9 Law 88-352, 78 Stat. 241). The term includes a full-time or  
10 part-time kindergarten program operated by a nonpublic school.

11 "Nonresident public school." A public school outside a  
12 child's resident school district.

13 "Nonresident school district." A school district other than  
14 the school district in which a school-age child resides.

15 "Nonresident student." A school-age child attending a public  
16 school outside the child's resident school district.

17 "Opportunity scholarship." An opportunity scholarship  
18 awarded to a low-income child under this subarticle to pay  
19 tuition for the child to attend a nonresident public school or a  
20 participating nonpublic school.

21 "Opportunity scholarship program." The opportunity  
22 scholarship program established under this subarticle.

23 "Opportunity scholarship recipient." A low-income child who  
24 is awarded an opportunity scholarship under this subarticle.

25 "Parent." A Commonwealth resident who is a parent or  
26 guardian of a school-age child.

27 "Participating nonpublic school." A nonpublic school located  
28 in this Commonwealth and offering a program of instruction for  
29 kindergarten through grade 12, or a combination of grades, that  
30 certifies to the department under section 2505-B that it meets

1 all of the following criteria:

2 (1) The nonpublic school is a nonprofit entity that is  
3 exempt from Federal taxation under section 501(c)(3) of the  
4 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
5 1 et seq.).

6 (2) The nonpublic school does not discriminate in its  
7 admission policies or practices for opportunity scholarship  
8 applicants on the basis of measures of achievement or  
9 aptitude or status as a handicapped person, except that an  
10 applicant may be required to meet established eligibility  
11 criteria for participation in magnet schools or in schools  
12 with specialized academic missions.

13 (3) The nonpublic school is in full compliance with all  
14 Federal and State laws applicable to nonpublic schools on the  
15 day prior to the effective date of this section.

16 "Resident school district." The school district in which a  
17 school-age child resides.

18 "School-age child." A child enrolling in kindergarten  
19 through grade 12.

20 "Secondary school." A school with an eleventh grade.

21 "Student with a disability." A school-age child who has been  
22 identified, in accordance with 22 Pa. Code Ch. 14 (relating to  
23 special education services and programs), as a "child with a  
24 disability," as defined in 34 CFR § 300.8 (relating to child  
25 with a disability).

26 "Total revenue per average daily membership." A school  
27 district's total revenue per average daily membership minus the  
28 amount of reimbursement to the school district for pupil  
29 transportation under sections 2509.3 and 2541.

30 Section 2503-B. Opportunity scholarship program.

1 (a) Establishment.--Beginning with the 2012-2013 school  
2 year, the opportunity scholarship program shall be established  
3 to provide scholarships to help low-income children pay tuition  
4 to attend a nonresident public school or a participating  
5 nonpublic school.

6 (b) Phase-in.--The opportunity scholarship program shall be  
7 phased in as follows:

8 (1) During the 2012-2013 school year, the opportunity  
9 scholarship program shall be available to low-income children  
10 who satisfy both of the following:

11 (i) Either attended a low achieving school during  
12 the 2011-2012 school year or will be a kindergarten  
13 student during the 2012-2013 school year.

14 (ii) Will reside within the attendance boundary of a  
15 low achieving school as of the first day of classes of  
16 the 2012-2013 school year.

17 (2) During the 2013-2014 school year and each year  
18 thereafter, the opportunity scholarship program shall be  
19 available to low-income children who qualified for the  
20 program for the 2012-2013 school year under paragraph (1) and  
21 to low-income children who will reside within the attendance  
22 boundary of a low achieving school as of the first day of  
23 classes of the 2013-2014 school year and each year  
24 thereafter.

25 (c) School list.--The department shall, by February 1, 2012,  
26 and by February 1 of each year thereafter, publish on the  
27 department's publicly accessible Internet website and in the  
28 Pennsylvania Bulletin a list of low achieving schools that shall  
29 be in effect for purposes of this subarticle for the following  
30 school year. The department shall publish the list based upon

1 the most recent school year for which data is available.

2 (d) Notice.--

3 (1) For each school year, by a date established by the  
4 department, each school district in this Commonwealth shall  
5 post on its publicly accessible Internet website notice of  
6 the following:

7 (i) A description of the opportunity scholarship  
8 program.

9 (ii) Instructions for applying for an opportunity  
10 scholarship.

11 (iii) Instructions for applying for a local  
12 scholarship if the school district has elected to provide  
13 a local scholarship under section 2504-B(b).

14 (iv) A statement as to whether any schools in the  
15 school district have been designated by the department as  
16 low achieving schools.

17 (v) Notice that a parent must contact directly the  
18 nonresident public school or participating nonpublic  
19 school in which the parent's child seeks to enroll for  
20 application instructions.

21 (2) The notice shall be in a form provided by the  
22 department.

23 Section 2504-B. Opportunity scholarship to attend a nonresident  
24 public school.

25 (a) Eligibility.--A low-income child who is eligible to  
26 participate in the opportunity scholarship program may receive  
27 an opportunity scholarship to pay tuition to attend a  
28 nonresident public school that accepts a child's enrollment  
29 application under subsection (d).

30 (b) Local scholarship.--A school district may elect to

1 provide a local scholarship to low-income children residing  
2 within the school district to pay tuition to attend a  
3 nonresident public school that accepts a child's enrollment  
4 application under subsection (d). A school district that elects  
5 to provide a local scholarship shall:

6 (1) By a date established by the department, notify all  
7 residents of the school district of the availability and  
8 amount of the local scholarship for the following school year  
9 and the process by which a low-income child may apply to the  
10 department to receive the opportunity and local scholarships.  
11 The school district shall post the notice on the school  
12 district's publicly accessible Internet website. The notice  
13 may be incorporated into the notice the school district is  
14 required to provide under section 2503-B(d).

15 (2) By a date established by the department, notify the  
16 department of the availability and amount of the local  
17 scholarship for the following school year.

18 (3) When directed to do so by the department, pay to the  
19 department the local scholarship for each low-income child  
20 residing in the district who the department determines to be  
21 eligible for the local scholarship and who the department  
22 confirms has enrolled in a nonresident public school.

23 (4) Comply with all guidelines developed by the  
24 department under section 2507-B.

25 (c) Application for opportunity and local scholarships.--

26 (1) By a date established by the department and pursuant  
27 to guidelines developed by the department under section 2507-  
28 B, the parent of a low-income child may apply to the  
29 department:

30 (i) For an opportunity scholarship for the following

1 school year.

2 (ii) For a local scholarship for the following  
3 school year, where the low-income child's resident school  
4 district has elected to provide a local scholarship under  
5 subsection (b).

6 (2) By a date established by the department, the  
7 department shall notify parents whether the scholarships for  
8 which the student applied will be awarded for the following  
9 school year.

10 (d) Application for enrollment in a nonresident public  
11 school.--

12 (1) By a date established by the department, the parent  
13 of a low-income child who has been awarded a scholarship  
14 under subsection (c) may apply to one or more nonresident  
15 public schools for enrollment of the child for the following  
16 school year. The application shall be on a form provided by  
17 the nonresident school district.

18 (2) (i) By a date established by the department, the  
19 nonresident school district shall provide written notice  
20 to the parent and the department as to whether the child  
21 will be offered enrollment in the requested nonresident  
22 public school for the following school year.

23 (ii) By a date established by the department, the  
24 parent shall provide written notice to the department,  
25 the resident school district and the nonresident school  
26 district whether the offer of enrollment will be  
27 accepted.

28 (iii) By a date established by the department, the  
29 department must provide the resident school district and  
30 the nonresident school district with written confirmation

1 of the opportunity scholarship recipient's enrollment in  
2 the nonresident school district.

3 (iv) If the child is not enrolled in a nonresident  
4 public school, the child's resident school district shall  
5 determine the public school within the resident school  
6 district to which the child will be assigned.

7 (3) Each school district shall notify the department if  
8 it intends to enroll nonresident students receiving  
9 opportunity and local scholarships and shall develop an  
10 enrollment application form and process. If a school district  
11 determines it will enroll nonresident students receiving  
12 opportunity and local scholarships, the school district must  
13 enroll the nonresident students on a random basis from a pool  
14 of applicants who meet the application deadline established  
15 by the department, if:

16 (i) the nonresident student's enrollment in the  
17 nonresident school district would not place either the  
18 nonresident school district or the resident school  
19 district in violation of a valid and binding  
20 desegregation order;

21 (ii) the nonresident student has not been expelled  
22 nor is in the process of being expelled under section  
23 1317.2 or 1318 and applicable regulations of the  
24 Department of Education;

25 (iii) the nonresident student has not been recruited  
26 by the school district or its representatives for  
27 athletic purposes; or

28 (iv) the nonresident student meets the established  
29 eligibility criteria for participation in a magnet school  
30 or in a public school with a specialized academic

1 mission.

2 (4) A nonresident school district may give priority in  
3 enrollment to any of the following:

4 (i) A nonresident student who has been awarded a  
5 local scholarship.

6 (ii) A nonresident student who is the sibling of a  
7 student who is currently enrolled in the nonresident  
8 school district.

9 (e) Commonwealth payments.--The Commonwealth shall make  
10 payment pursuant to the schedule contained under section 2517  
11 to each school district or area vocational-technical school that  
12 accepts a nonresident student under the provisions of this  
13 subarticle subject to the following terms and conditions:

14 (1) The Commonwealth shall pay to each school district  
15 or area vocational-technical school that accepts a  
16 nonresident student, on a tuition basis, the amount  
17 determined under section 2506-B.

18 (2) (i) For a nonresident student who is an opportunity  
19 scholarship recipient and is defined as a "student with a  
20 disability," services provided to the opportunity  
21 scholarship recipient shall be charged against the  
22 Commonwealth's special education subsidy to the resident  
23 school district, except that the resident school district  
24 shall not be charged more for services provided to the  
25 opportunity scholarship recipient by the nonresident  
26 school district than the difference between:

27 (A) the current year cost of the services had  
28 the opportunity scholarship recipient remained in the  
29 resident school district; and

30 (B) the sum of the opportunity scholarship, the

1 local scholarship and the per pupil special education  
2 funding following the opportunity scholarship  
3 recipient.

4 (ii) The resident school district shall provide the  
5 department with documentation of the prior year's cost of  
6 services provided to the opportunity scholarship  
7 recipient and an estimate of the cost of providing those  
8 services in the current year had the opportunity  
9 scholarship recipient remained in the resident school  
10 district. Any cost not covered by this funding shall be  
11 borne by the nonresident school district enrolling the  
12 opportunity scholarship recipient.

13 (3) If an opportunity scholarship recipient withdraws  
14 from a nonresident school district prior to the completion of  
15 the school year, the following shall apply:

16 (i) The nonresident school district shall, within 15  
17 days of the opportunity scholarship recipient's  
18 withdrawal from the nonresident school district, provide  
19 the department with written notice of the opportunity  
20 scholarship recipient's withdrawal from the nonresident  
21 school district.

22 (ii) The resident school district, nonresident  
23 school district or participating nonpublic school in  
24 which the opportunity scholarship recipient subsequently  
25 enrolls shall notify the department within five days of  
26 the opportunity scholarship recipient's enrollment.

27 (iii) Within 30 days after receiving the notice  
28 required under subparagraph (ii), the department shall do  
29 the following:

30 (A) If the opportunity scholarship recipient

1 enrolls in the resident school district or a  
2 nonresident school district, pay the resident school  
3 district or nonresident school district the full  
4 amount of the opportunity scholarship payment reduced  
5 on a pro rata basis for the portion of the school  
6 year in which the opportunity scholarship recipient  
7 was enrolled in another school.

8 (B) If the opportunity scholarship recipient  
9 enrolls in a participating nonpublic school, pay the  
10 opportunity scholarship recipient's parent the full  
11 amount of the opportunity scholarship payment reduced  
12 on a pro rata basis for the portion of the school  
13 year in which the opportunity scholarship recipient  
14 was enrolled in another school. Payment shall be made  
15 to the parents of the opportunity scholarship  
16 recipient pursuant to the provisions of section 2505-  
17 B(b).

18 (f) Limitation.--The tuition charged by a nonresident school  
19 district to an opportunity scholarship recipient under this  
20 subarticle shall not exceed the sum of the opportunity  
21 scholarship and the local scholarship, if applicable, awarded to  
22 the opportunity scholarship recipient.

23 (g) Transportation.--

24 (1) Notwithstanding any provisions of section 1361, a  
25 school district that provides its resident public school  
26 pupils with transportation to and from the resident public  
27 schools under section 1361 shall provide a student who  
28 resides within the school district but regularly attends a  
29 nonresident public school, including a charter school, that  
30 is located not more than ten miles from the student's

1 resident school district by the nearest public highway, with  
2 transportation to and from the nonresident public school  
3 under section 1361.

4 (2) Transportation of a student under this subsection  
5 shall be subject to reimbursement under section 2541.

6 Section 2505-B. Opportunity scholarship to attend a  
7 participating nonpublic school.

8 (a) Procedure.--

9 (1) The parent of a low-income child who is eligible to  
10 receive an opportunity scholarship under section 2503-B and  
11 desires to apply for an opportunity scholarship to attend a  
12 participating nonpublic school must comply with the  
13 provisions of this subsection.

14 (2) (i) By a date established by the department, the  
15 parent must apply to the department for an opportunity  
16 scholarship for the following school year pursuant to  
17 guidelines developed by the department under section  
18 2507-B.

19 (ii) By a date established by the department, the  
20 department shall notify parents whether the opportunity  
21 scholarship will be awarded for the following school  
22 year.

23 (3) (i) The parent must apply for enrollment directly  
24 to the participating nonpublic school pursuant to  
25 application procedures developed by the participating  
26 nonpublic school.

27 (ii) By a date established by the department, a  
28 participating nonpublic school shall provide written  
29 confirmation to the department of each opportunity  
30 scholarship recipient whose application for enrollment

1 has been accepted for the following school year.

2 (iii) By a date established by the department, the  
3 department shall provide the opportunity scholarship  
4 recipient's resident school district with written  
5 confirmation of the opportunity scholarship recipient's  
6 enrollment in the participating nonpublic school.

7 (b) Payment of opportunity scholarships.--The Commonwealth  
8 shall provide payment of an opportunity scholarship to the  
9 parents of each opportunity scholarship recipient who is  
10 enrolled in a participating nonpublic school under the  
11 provisions of this subarticle subject to the following terms and  
12 conditions:

13 (1) (i) Opportunity scholarships shall be awarded only  
14 for the payment of costs of tuition at a participating  
15 nonpublic school within this Commonwealth.

16 (ii) Opportunity scholarships shall not be awarded  
17 for enrollment in a home education program provided under  
18 section 1327.1.

19 (2) (i) Opportunity scholarships shall be paid to the  
20 parents of an opportunity scholarship recipient upon the  
21 department's receipt of written confirmation of  
22 enrollment from the participating nonpublic school  
23 selected by the recipient.

24 (ii) The opportunity scholarship shall be paid by  
25 check, which may be endorsed by the parents only for  
26 payment of tuition at the participating nonpublic school  
27 at which the opportunity scholarship recipient's  
28 enrollment has been confirmed.

29 (3) If an opportunity scholarship recipient withdraws  
30 from a participating nonpublic school prior to the completion

1 of the school year, the following shall apply:

2 (i) The participating nonpublic school shall, within  
3 15 days of the opportunity scholarship recipient's  
4 withdrawal from the participating nonpublic school:

5 (A) Provide the department with written notice  
6 of the opportunity scholarship recipient's withdrawal  
7 from the participating nonpublic school.

8 (B) Return to the department the full amount of  
9 the opportunity scholarship payment reduced on a pro  
10 rata basis by the tuition for the portion of the  
11 school year in which the opportunity scholarship  
12 recipient was enrolled.

13 (ii) If the participating nonpublic school fails to  
14 submit to the department the amount required to be paid  
15 under subparagraph (i), the department shall impose  
16 interest on the unpaid amount, calculated from the due  
17 date at the rate determined by the Secretary of Revenue  
18 for interest payments on overdue taxes or the refund of  
19 taxes as provided in sections 806 and 806.1 of the act of  
20 April 9, 1929 (P.L.343, No.176), known as The Fiscal  
21 Code.

22 (iii) If the opportunity scholarship recipient  
23 enrolls in another participating nonpublic school within  
24 the school year for which the opportunity scholarship was  
25 awarded, the department shall pay the parent of the  
26 opportunity scholarship recipient the opportunity  
27 scholarship prorated for the remaining portion of the  
28 school year.

29 (4) (i) If an opportunity scholarship recipient is  
30 expelled from a participating nonpublic school prior to

1 the completion of the school year and the opportunity  
2 scholarship recipient subsequently enrolls in his  
3 resident school district, the department shall pay the  
4 resident school district the opportunity scholarship  
5 award, prorated for the remaining portion of the school  
6 year.

7 (ii) The resident school district shall apply the  
8 payment calculated under subparagraph (i) toward  
9 providing educational services for the opportunity  
10 scholarship recipient, pursuant to Federal and State law.

11 (c) Disclosure of penalties.--

12 (1) Each opportunity scholarship check issued under this  
13 section shall contain the following statement:

14 "Failure to endorse this check as directed by the  
15 department may subject the endorser to civil penalties  
16 and criminal prosecution."

17 (2) A parent's endorsement or use of an opportunity  
18 scholarship check in a manner other than as directed by the  
19 department may subject the parent to the following penalties:

20 (i) A civil penalty equal to 300% of the full amount  
21 of the annual opportunity scholarship awarded to the  
22 parent.

23 (ii) Disqualification from future eligibility for an  
24 opportunity scholarship.

25 (iii) Criminal prosecution.

26 (d) Enrollment requirements.--The following shall apply to a  
27 participating nonpublic school that admits an opportunity  
28 scholarship recipient:

29 (1) The participating nonpublic school shall not  
30 discriminate on any basis that is illegal under Federal or

1 State laws applicable to nonpublic schools on the date prior  
2 to the effective date of this section.

3 (2) The participating nonpublic school shall comply with  
4 section 1521, which prohibits discrimination in enrollment on  
5 the basis of race or color.

6 (3) The participating nonpublic school may not recruit  
7 any public school student to enroll for athletic purposes.

8 (4) For each school year, by a date established by the  
9 department, a nonpublic school that desires to enroll  
10 opportunity scholarship recipients under this subarticle  
11 shall certify to the department that it satisfies the  
12 definition of "participating nonpublic school" in section  
13 2502-B. The certification shall be submitted on a form  
14 developed by the department.

15 (d.1) Policies.--Upon request, a participating nonpublic  
16 school shall make available for review by the parents of any  
17 opportunity scholarship recipient seeking enrollment its written  
18 school policies and procedures related to tuition charges,  
19 admissions, academic offerings and requirements, discipline,  
20 religious instruction, parent involvement, standardized testing,  
21 the release of results of standardized tests administered by the  
22 participating nonpublic school, extracurricular activities and  
23 suspension and expulsion of students, including educational  
24 accommodations and counseling offered to students and parents.

25 (e) Assessments.--

26 (1) (i) Each participating nonpublic school shall  
27 administer annually an assessment or a nationally normed  
28 standardized achievement test in reading and language  
29 arts and mathematics to each opportunity scholarship  
30 recipient attending the participating nonpublic school in

1 grades 3, 5, 8 and 11.

2 (ii) To comply with subparagraph (i), a  
3 participating nonpublic school may either administer an  
4 assessment or administer a nationally normed standardized  
5 achievement test chosen by the participating nonpublic  
6 school from a list established under paragraph (2).

7 (2) The department shall establish a list of at least  
8 eight nationally normed standardized achievement tests from  
9 which the participating nonpublic school shall select a test  
10 to be administered if the participating nonpublic school does  
11 not choose to administer an assessment.

12 (3) Each participating nonpublic school shall:

13 (i) Release each opportunity scholarship recipient's  
14 individual results on the assessment or nationally normed  
15 standardized achievement test administered to opportunity  
16 scholarship recipients under paragraph (1) to the parent  
17 of the opportunity scholarship recipient.

18 (ii) If the participating nonpublic school has a  
19 publicly accessible Internet website, post on the website  
20 the participating nonpublic school's aggregate results on  
21 the assessment or nationally normed standardized  
22 achievement test administered to opportunity scholarship  
23 recipients under paragraph (1), except that the  
24 participating nonpublic school shall not post results  
25 that reveal the identity of any individual student.

26 (4) The participating nonpublic school shall bear the  
27 cost of the testing administered under this subsection and  
28 may not impose an assessment or testing fee on an opportunity  
29 scholarship recipient.

30 (5) The department may not require a participating

1 nonpublic school to provide individual or aggregate results  
2 of the testing administered under this subsection beyond the  
3 manner prescribed in paragraph (3).

4 (f) Construction.--Nothing in this subarticle shall be  
5 construed to:

6 (1) Prohibit a participating nonpublic school from  
7 limiting admission to a particular grade level, a single  
8 gender or to areas of concentration of the participating  
9 nonpublic school, including mathematics, science and the  
10 arts.

11 (2) Empower the Commonwealth or any of its agencies or  
12 officers or political subdivisions to impose any additional  
13 requirements on any participating nonpublic school which are  
14 not otherwise authorized under the laws of this Commonwealth  
15 or to require any participating nonpublic school to enroll  
16 any opportunity scholarship recipient if the participating  
17 nonpublic school does not offer appropriate programs or is  
18 not structured or equipped with the necessary facilities to  
19 meet the special needs of the opportunity scholarship  
20 recipient or does not offer a particular program requested.

21 Section 2506-B. Amount of opportunity scholarship.

22 (a) Calculation.--

23 (1) The base amount of the opportunity scholarship shall  
24 equal 100% of the Commonwealth's share of the resident school  
25 district's total revenue per average daily membership of the  
26 prior school year. The base amount shall be multiplied by the  
27 appropriate factor set forth in this subsection to determine  
28 each opportunity scholarship recipient's actual opportunity  
29 scholarship amount.

30 Household income as a percentage of the Federal Factor

1 poverty line for the school year preceding the  
2 school year for which an opportunity scholarship  
3 is to be distributed:

4 <u>Up to and including 100%.....</u>	<u>1.0</u>
5 <u>Above 100%, but not more than 150%.....</u>	<u>0.9</u>
6 <u>Above 150%, but not more than 200% .....</u>	<u>0.75</u>
7 <u>Above 200%, but not more than 250%.....</u>	<u>0.5</u>

8 (2) In no case shall the combined amount of the  
9 opportunity scholarship and any additional financial  
10 assistance provided by a participating nonpublic school  
11 exceed the tuition rate for the participating nonpublic  
12 school.

13 (b) Limitation.--No nonresident public school or  
14 participating nonpublic school may charge an opportunity  
15 scholarship recipient a higher tuition rate than the rate the  
16 nonresident public school or participating nonpublic school  
17 would have charged to a student who has not received an  
18 opportunity scholarship.

19 (c) Annual appropriations.--Opportunity scholarships  
20 authorized under this subarticle shall be made from annual  
21 appropriations made by the General Assembly to the department  
22 for the 2012-2013 school year and each school year thereafter.  
23 The total amount of opportunity scholarships provided for the  
24 2013-2014 school year and each year thereafter shall be limited  
25 to the amount of money appropriated for that fiscal year. In the  
26 event that insufficient moneys are available in any fiscal year  
27 to provide opportunity scholarships to all eligible opportunity  
28 scholarship recipients in the amount authorized, the department  
29 shall make pro rata reductions in the amount of the opportunity  
30 scholarship provided to each opportunity scholarship recipient

1 (d) Nontaxable.--Opportunity scholarship funds received by a  
2 parent pursuant to this subarticle shall not be considered  
3 taxable income for purposes of any local taxing ordinance or for  
4 purposes of Article III of the act of March 4, 1971 (P.L.6,  
5 No.2), known as the Tax Reform Code of 1971, nor shall  
6 opportunity scholarships constitute financial assistance or  
7 appropriations to the participating nonpublic school attended by  
8 the opportunity scholarship recipient.

9 (e) Continued eligibility.--

10 (1) A child enrolled in a nonresident public school or a  
11 participating nonpublic school who received an opportunity  
12 scholarship under this subarticle in the prior school year  
13 shall receive an opportunity scholarship in each school year  
14 of enrollment under the opportunity scholarship program.

15 (2) (i) If a child who received an opportunity  
16 scholarship under this subarticle in the prior school  
17 year ceases to qualify as a low-income child, the child  
18 shall continue to receive a partial scholarship until  
19 completing the eighth grade, provided that the child  
20 continues to meet all other eligibility requirements.

21 (ii) In calculating the amount of the partial  
22 scholarship, the department shall make a pro rata  
23 reduction in the child's opportunity scholarship based  
24 upon the child's household income.

25 (f) Penalties.--Any person who fraudulently submits an  
26 opportunity or local scholarship application or who knowingly  
27 falsifies material information on an opportunity or local  
28 scholarship application shall be subject to the following  
29 penalties:

30 (1) Imposition by the department of a civil penalty of

1 up to \$1,000.

2 (2) Prosecution for violation of 18 Pa.C.S. § 4904  
3 (relating to unsworn falsification to authorities).

4 (3) Disqualification from future participation in the  
5 opportunity scholarship program.

6 (g) Residence in more than one school district within school  
7 year.--When an opportunity scholarship recipient resides within  
8 more than one school district during a school year, the amount  
9 of the opportunity scholarship shall be charged against each  
10 resident school district on a pro rata basis.

11 Section 2507-B. Guidelines.

12 (a) Requirements.--Within 120 days of the effective date of  
13 this section, the department, subject to the approval of the  
14 board under section 2509-B(f)(2), shall establish guidelines  
15 that provide the following:

16 (1) Forms to apply for opportunity and local  
17 scholarships, including application and approval processes  
18 and deadlines for application and notification.

19 (2) Procedures to verify the accuracy of the information  
20 provided in an opportunity or local scholarship application.

21 (3) Procedures for school district, school and parent  
22 notification of opportunity or local scholarship awards.

23 (4) Procedures for administration of the opportunity and  
24 local scholarship programs.

25 (5) Confirmation of school enrollment by opportunity  
26 scholarship recipients.

27 (6) Procedures for making payment of opportunity  
28 scholarships, including policies and procedures to minimize  
29 the likelihood of fraud or misuse of opportunity scholarship  
30 funds. For an opportunity scholarship recipient enrolled in a

1 participating nonpublic school, the procedures shall include  
2 restrictive endorsement of opportunity scholarship checks to  
3 the participating nonpublic school in which the opportunity  
4 scholarship recipient is enrolled.

5 (7) Procedures for participating nonpublic schools to  
6 pay pro rata refunds of opportunity scholarships to the  
7 department when an opportunity scholarship recipient  
8 withdraws from a participating nonpublic school during the  
9 school year for which the opportunity scholarship was paid.

10 (8) Development and distribution of public information  
11 concerning the opportunity and local scholarship programs.

12 (9) Procedures to determine the eligibility of homeless  
13 students for opportunity scholarships under this subarticle,  
14 consistent with the McKinney-Vento Homeless Assistance Act  
15 (Public Law 100-77, 101 Stat. 482), or a successor Federal  
16 statute.

17 (10) Deadline dates for actions required to be taken by  
18 the department, school districts, participating nonpublic  
19 schools and parents under this subarticle.

20 (11) Policies and procedures to be followed by the  
21 participating nonpublic schools in posting the aggregate  
22 results of the assessment or nationally normed standardized  
23 achievement test administered to opportunity scholarship  
24 recipients pursuant to section 2505-B(e)(3)(ii) provided that  
25 the department may not require a participating nonpublic  
26 school to provide individual or aggregate results of the  
27 testing administered under section 2505-B(e) directly to the  
28 department or require a participating nonpublic school to  
29 provide testing results or information beyond the  
30 requirements of section 2505-B(e)(3).

1           (12) Other procedures as are necessary to fully  
2 implement the opportunity and local scholarship programs.

3           (13) A list of at least eight nationally normed  
4 standardized achievement tests from which a participating  
5 nonpublic school may select a test to be administered  
6 pursuant to section 2505-B(e). The initial list developed by  
7 the board shall, at a minimum, include the following:

8           (i) California Achievement Test.

9           (ii) Comprehensive Testing Program (CTPIV).

10          (iii) Iowa Test of Basic Skills.

11          (iv) Metropolitan Achievement Test.

12          (v) Peabody Achievement Individual Test - Revised  
13 Version.

14          (vi) Stanford Achievement Test.

15          (vii) Terra Nova.

16          (viii) Woodcock Johnson Revised Tests of Achievement

17          III.

18          (b) Publication.--The guidelines shall be published as a  
19 statement of policy in the Pennsylvania Bulletin. The department  
20 shall post the guidelines on the department's publicly  
21 accessible Internet website.

22          (c) State Board of Education.--Notwithstanding any other  
23 provision of law to the contrary, the programs, procedures and  
24 guidelines authorized by this subarticle shall not be subject to  
25 review, regulation or approval by the State Board of Education.

26          (d) Exemption of guidelines from certain laws.--The initial  
27 guidelines established by the department, and any amendments to  
28 the guidelines, shall be exempt from the requirements of the  
29 following:

30           (1) The act of June 25, 1982 (P.L.633, No.181), known as

1 the Regulatory Review Act.

2 (2) The act of July 31, 1968 (P.L.769, No.240), referred  
3 to as the Commonwealth Documents Law.

4 (3) The act of October 15, 1980 (P.L.950, No.164), known  
5 as the Commonwealth Attorneys Act.

6 Section 2508-B. Reduction in amount of school aid.

7 (a) General rule.--Notwithstanding any other provision of  
8 law to the contrary, beginning in the second consecutive school  
9 year of enrollment in a nonresident public school or a  
10 participating nonpublic school by an opportunity scholarship  
11 recipient who was enrolled in the recipient's resident school  
12 district or in a charter school or cyber charter school when the  
13 recipient first received an opportunity scholarship under this  
14 subarticle, the amount of Commonwealth basic education funding  
15 paid by the department to the resident school district shall be  
16 reduced by an amount equal to the Commonwealth's share of the  
17 school district's total revenue per average daily membership.

18 (b) Average daily membership.--Where a resident school  
19 district's basic education funding is reduced under subsection  
20 (a), the resident school district shall continue to include the  
21 opportunity scholarship recipient in the resident school  
22 district's average daily membership.

23 Section 2509-B. Education Opportunity Board.

24 (a) Establishment.--

25 (1) The Education Opportunity Board is established  
26 within the department.

27 (2) The board shall consist of three members. A member  
28 must be a resident of this Commonwealth.

29 (3) Initial members shall be appointed by the Governor.  
30 The Governor may appoint no more than two members to the

1 board who are members of the same political party as the  
2 Governor.

3 (4) Upon the expiration of the term or the occurrence of  
4 a vacancy in the office of a member of the board, the  
5 Governor shall appoint a successor member with the advice and  
6 consent of a majority of the members elected to the Senate.

7 (b) Terms.--A member shall serve a term of four years. A  
8 member shall continue to serve after the expiration of the term  
9 until the Governor appoints a replacement who is confirmed by a  
10 majority of the members elected to the Senate.

11 (c) Chairperson.--The Governor shall annually select a  
12 chairperson from among the membership of the board.

13 (d) Meetings.--

14 (1) Meetings shall be held:

15 (i) at least quarterly at the call of the  
16 chairperson; and

17 (ii) upon request in writing of a majority of the  
18 board.

19 (2) Two members constitute a quorum. Unless otherwise  
20 specified in this subarticle, a quorum may act upon a matter  
21 properly before the board.

22 (e) Compensation prohibited.--Members of the board shall  
23 receive no compensation for services but shall be reimbursed for  
24 actual and necessary expenses incurred in the performance of  
25 official duties.

26 (f) Powers and duties.--The board has the following powers  
27 and duties:

28 (1) Advise the department concerning the implementation  
29 and administration of the opportunity scholarship and local  
30 scholarship programs.

1           (2) Approve guidelines established by the department  
2 under section 2507-B.

3           (3) Prepare an annual report to be submitted by December  
4 1 to the chair and minority chair of the Education Committee  
5 of the Senate and the chair and minority chair of the  
6 Education Committee of the House of Representatives. The  
7 report shall describe the manner in which the board carries  
8 out its powers and duties under this subsection.

9           (g) Staff.--The department shall provide, from existing  
10 personnel of the department, adequate staffing to facilitate the  
11 responsibilities of the board.

12 Section 2509.1-B. Powers and duties of department.

13 The department has the following powers and duties:

14           (1) Establish, under section 2507-B, guidelines for the  
15 administration of the local scholarship program and the  
16 opportunity scholarship program.

17           (2) Administer the application and approval processes  
18 for local scholarships and opportunity scholarships. This  
19 paragraph includes developing:

20                   (i) application forms and other necessary forms; and

21                   (ii) the notice under section 2503-B(d).

22           (4) Review and verify the income and residence of each  
23 applicant for a local scholarship and an opportunity  
24 scholarship.

25           (5) Announce the award of local scholarships and  
26 opportunity scholarships for the following school year under  
27 sections 2504-B(c) and 2505-B(a).

28           (6) Confirm the enrollment of opportunity scholarship  
29 recipients in nonresident public schools and participating  
30 nonpublic schools and allocate opportunity scholarship funds

1 to opportunity scholarship recipients.

2 (7) Make payment of opportunity scholarships under  
3 sections 2504-B and 2505-B.

4 (8) Notify school districts that elect to create local  
5 scholarships when payment must be made under section 2504-B  
6 (b).

7 (9) Make payment to nonresident public schools of local  
8 scholarships paid to the department under section 2504-B(b)  
9 (3).

10 (10) Beginning after the first school year of  
11 implementation of the opportunity scholarship program,  
12 prepare an annual report to be submitted by December 1 to the  
13 Governor, the Secretary of the Senate and the Chief Clerk of  
14 the House of Representatives and to be made available to the  
15 parents of opportunity scholarship recipients and placed on  
16 the department's publicly accessible Internet website. The  
17 report shall include at least the following information for  
18 the prior school year:

19 (i) Total number of opportunity scholarships  
20 requested.

21 (ii) Total number and total dollar amount of  
22 opportunity scholarships awarded. Totals under this  
23 subparagraph shall be classified as to:

24 (A) whether the opportunity scholarship  
25 recipient attends a nonresident public school or a  
26 participating nonpublic school;

27 (B) the grade level of the opportunity  
28 scholarship recipient; and

29 (C) whether the opportunity scholarship  
30 recipient resides in a school district with at least

1 one low achieving school.

2 (iii) Administrative cost of the opportunity  
3 scholarship program.

4 (iv) A list of nonresident public schools to which  
5 opportunity scholarship funds were disbursed on behalf of  
6 opportunity scholarship recipients and the amount  
7 disbursed to each nonresident public school.

8 (v) A list of participating nonpublic schools in  
9 which opportunity scholarship recipients enrolled and the  
10 number of opportunity scholarship recipients who enrolled  
11 in each participating nonpublic school.

12 (vi) Total number and total dollar amount of local  
13 scholarships awarded. Totals under this subparagraph  
14 shall be classified as to resident school districts that  
15 made the local scholarship awards.

16 Section 2510-B. Study.

17 Following the 2015-2016 school year, the department shall  
18 conduct a study of the effectiveness of the opportunity  
19 scholarship program and shall deliver a written report of its  
20 findings, including any recommendations for changes to the  
21 program, to the Governor, the chair and minority chair of the  
22 Education Committee of the Senate and the chair and minority  
23 chair of the Education Committee of the House of Representatives  
24 by December 31, 2016. The following apply:

25 (1) The study shall assess the effectiveness of section  
26 2505-B(e).

27 (2) Except as set forth in paragraph (3), the study  
28 shall be conducted using only data posted on the  
29 participating nonpublic school's publicly accessible Internet  
30 website under section 2505-B(e) (3) (ii).

1           (3) The study may include an examination of individual  
2           student test results or files maintained by participating  
3           nonpublic schools.

4 Section 2511-B. Exclusive jurisdiction of Supreme Court.

5           The Supreme Court shall have exclusive jurisdiction to hear a  
6           challenge or to render a declaratory judgment concerning the  
7           constitutionality of this subarticle. The Supreme Court may take  
8           appropriate action, consistent with retaining jurisdiction, to  
9           find facts or to expedite a final judgment in connection with  
10          the matter.

11                   (c) Educational Improvement Tax Credit

12 Section 2521-B. Definitions.

13          The following words and phrases when used in this subarticle  
14          shall have the meanings given to them in this section unless the  
15          context clearly indicates otherwise:

16          "Business firm." An entity authorized to do business in this  
17          Commonwealth and subject to taxes imposed under Article III, IV,  
18          VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,  
19          No.2), known as the Tax Reform Code of 1971. The term includes a  
20          pass-through entity.

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

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

27          "Educational improvement organization." A nonprofit entity  
28          which:

- 29                   (1) is exempt from Federal taxation under section 501(c)  
30                   (3) of the Internal Revenue Code of 1986 (Public Law 99-514,

1 26 U.S.C. § 1 et seq.); and

2 (2) contributes at least 80% of its annual receipts as  
3 grants to a public school, a chartered school as defined in  
4 section 1376.1 or a private school approved under section  
5 1376 for innovative educational programs.

6 For purposes of this definition, a nonprofit entity contributes  
7 its annual cash receipts when it expends or otherwise  
8 irrevocably encumbers those funds for expenditure during the  
9 then current fiscal year of the nonprofit entity or during the  
10 next succeeding fiscal year of the nonprofit entity. A nonprofit  
11 entity includes a school district foundation, public school  
12 foundation, charter school foundation or cyber charter school  
13 foundation.

14 "Eligible prekindergarten student." A student, including an  
15 eligible student with a disability, who is enrolled in a  
16 prekindergarten program and is a member of a household with a  
17 maximum annual household income as increased by the applicable  
18 income allowance.

19 "Eligible student." A school-age student, including an  
20 eligible student with a disability, who is enrolled in a school  
21 and is a member of a household with a maximum annual household  
22 income as increased by the applicable income allowance.

23 "Eligible student with a disability." A prekindergarten  
24 student or a school-age student who meets all of the following:

25 (1) Is either enrolled in a special education school or  
26 has otherwise been identified, in accordance with 22 Pa. Code  
27 Ch. 14 (relating to special education services and programs),  
28 as a "child with a disability," as defined in 34 CFR § 300.8  
29 (relating to child with a disability).

30 (2) Needs special education and related services.

1           (3) Is enrolled in a prekindergarten program or in a  
2 school.

3           (4) Is a member of a household with a household income  
4 of not more than the maximum annual household income.

5           "Household." An individual living alone or with the  
6 following: a spouse, parent and their unemancipated minor  
7 children, other unemancipated minor children who are related by  
8 blood or marriage or other adults or unemancipated minor  
9 children living in the household who are dependent upon the  
10 individual.

11           "Household income." All money or property received of  
12 whatever nature and from whatever source derived. The term does  
13 not include the following:

14           (1) Periodic payments for sickness and disability other  
15 than regular wages received during a period of sickness or  
16 disability.

17           (2) Disability, retirement or other payments arising  
18 under workers' compensation acts, occupational disease acts  
19 and similar legislation by any government.

20           (3) Payments commonly recognized as old-age or  
21 retirement benefits paid to persons retired from service  
22 after reaching a specific age or after a stated period of  
23 employment.

24           (4) Payments commonly known as public assistance or  
25 unemployment compensation payments by a governmental agency.

26           (5) Payments to reimburse actual expenses.

27           (6) Payments made by employers or labor unions for  
28 programs covering hospitalization, sickness, disability or  
29 death, supplemental unemployment benefits, strike benefits,  
30 Social Security and retirement.

1       (7) Compensation received by United States servicemen  
2   serving in a combat zone.

3 "Income allowance."

4       (1) Subject to paragraph (2), the amount of:

5           (i) Before July 1, 2011, \$10,000 for each eligible  
6   student, eligible prekindergarten student and dependent  
7   member of a household.

8           (ii) After June 30, 2011, through June 30, 2012,  
9   \$12,000 for each eligible student, eligible  
10   prekindergarten student and dependent member of a  
11   household.

12           (iii) After June 30, 2012, through June 30, 2013,  
13   \$15,000 for each eligible student, eligible  
14   prekindergarten student and dependent member of a  
15   household.

16       (2) Beginning July 1, 2013, the Department of Community  
17   and Economic Development shall annually adjust the income  
18   allowance amounts under paragraph (1) to reflect any upward  
19   changes in the Consumer Price Index for All Urban Consumers  
20   for the Pennsylvania, New Jersey, Delaware and Maryland area  
21   in the preceding 12 months and shall immediately submit the  
22   adjusted amounts to the Legislative Reference Bureau for  
23   publication as a notice in the Pennsylvania Bulletin.

24 "Innovative educational program." An advanced academic or  
25   similar program that is not part of the regular academic program  
26   of a public school but that enhances the curriculum or academic  
27   program of a public school, chartered school as defined in  
28   section 1376.1(a) or private school approved in accordance with  
29   section 1376, or provides prekindergarten programs to public  
30   school students, students of a chartered school as defined in

1 section 1376.1(a) or students of a private school approved in  
2 accordance with section 1376.

3 "Maximum annual household income."

4 (1) Except as stated in paragraph (2) and subject to  
5 paragraph (3), the following:

6 (i) Before July 1, 2011, not more than \$50,000.

7 (ii) After June 30, 2011, through June 30, 2012, not  
8 more than \$60,000.

9 (iii) After June 30, 2012, not more than \$75,000.

10 (2) With respect to an eligible student with a  
11 disability, as calculated by multiplying:

12 (i) the sum of:

13 (A) the applicable amount under paragraph (1);

14 and

15 (B) the applicable income allowance; by

16 (ii) the applicable support level factor according  
17 to the following table:

<u>Support Level</u>	<u>Support Level Factor</u>
<u>1</u>	<u>1.50</u>
<u>2</u>	<u>2.993</u>

21 (3) Beginning July 1, 2013, the Department of Community  
22 and Economic Development shall annually adjust the income  
23 amounts under paragraphs (1) and (2) to reflect any upward  
24 changes in the Consumer Price Index for All Urban Consumers  
25 for the Pennsylvania, New Jersey, Delaware and Maryland area  
26 in the preceding 12 months and shall immediately submit the  
27 adjusted amounts to the Legislative Reference Bureau for  
28 publication as a notice in the Pennsylvania Bulletin.

29 "Pass-through entity." A partnership as defined in section  
30 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the

1 Tax Reform Code of 1971, a single-member limited liability  
2 company treated as a disregarded entity for Federal income tax  
3 purposes or a Pennsylvania S corporation as defined in section  
4 301(n.1) of the Tax Reform Code of 1971.

5 "Prekindergarten program." A program of instruction for  
6 three-year-old or four-year-old students that utilizes a  
7 curriculum aligned with the curriculum of the school with which  
8 it is affiliated and that provides:

9 (1) a minimum of two hours of instructional and  
10 developmental activities per day at least 60 days per school  
11 year; or

12 (2) a minimum of two hours of instructional and  
13 developmental activities per day at least 20 days over the  
14 summer recess.

15 "Prekindergarten scholarship organization." A nonprofit  
16 entity that:

17 (1) Either is exempt from Federal taxation under section  
18 501(c) (3) of the Internal Revenue Code of 1986 (Public Law  
19 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate  
20 segregated fund by a scholarship organization that has been  
21 qualified under section 2522-B.

22 (2) Contributes at least 80% of its annual cash receipts  
23 to a prekindergarten scholarship program by expending or  
24 otherwise irrevocably encumbering those funds for  
25 distribution during the then current fiscal year of the  
26 organization or during the next succeeding fiscal year of the  
27 organization.

28 "Prekindergarten scholarship program." A program to provide  
29 tuition to eligible prekindergarten students to attend a  
30 prekindergarten program operated by or in conjunction with a

1 school located in this Commonwealth and that includes an  
2 application and review process for the purpose of making awards  
3 to eligible prekindergarten students and awards scholarships to  
4 eligible prekindergarten students without limiting availability  
5 to only students of one school.

6 "Public school." A public prekindergarten where compulsory  
7 attendance requirements do not apply or a public kindergarten,  
8 elementary school or secondary school at which the compulsory  
9 attendance requirements of this Commonwealth may be met and that  
10 meets the applicable requirements of Title VI of the Civil  
11 Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

12 "Scholarship." An award under a scholarship program.

13 "Scholarship organization." A nonprofit entity that:

14 (1) is exempt from Federal taxation under section 501(c)  
15 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,  
16 26 U.S.C. § 1 et seq.); and

17 (2) contributes at least 80% of its annual cash receipts  
18 to a scholarship program.

19 For purposes of this definition, a nonprofit entity contributes  
20 its annual cash receipts to a scholarship program when it  
21 expends or otherwise irrevocably encumbers those funds for  
22 distribution during the then current fiscal year of the  
23 nonprofit entity or during the next succeeding fiscal year of  
24 the nonprofit entity.

25 "Scholarship program." A program to provide tuition to  
26 eligible students to attend a school located in this  
27 Commonwealth. A scholarship program must include an application  
28 and review process for the purpose of making awards to eligible  
29 students. The award of scholarships to eligible students shall  
30 be made without limiting availability to only students of one

1 school.

2 "School." A public or nonpublic prekindergarten,  
3 kindergarten, elementary school or secondary school at which the  
4 compulsory attendance requirements of the Commonwealth may be  
5 met and that meets the applicable requirements of Title VI of  
6 the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

7 "School age." From the earliest admission age to a school's  
8 prekindergarten or kindergarten program or, when no  
9 prekindergarten or kindergarten program is provided, the  
10 school's earliest admission age for beginners, until the end of  
11 the school year the student attains 21 years of age or  
12 graduation from high school, whichever occurs first.

13 "Special education school." A school or program within a  
14 school that is designated specifically and exclusively for  
15 students with any of the disabilities listed in 34 CFR § 300.8  
16 (relating to child with a disability) and meets one of the  
17 following:

18 (1) is licensed under the act of January 28, 1988  
19 (P.L.24, No.11), known as the Private Academic Schools Act;

20 (2) is accredited by an accrediting association approved  
21 by the State Board of Education;

22 (3) is a school for the blind or deaf receiving  
23 Commonwealth appropriations; or

24 (4) is operated by or under the authority of a bona fide  
25 religious institution or by the Commonwealth or a political  
26 subdivision.

27 "Support level." The level of support needed by an eligible  
28 student with a disability, as stated in the following matrix:

29 (1) Support level 1. The student is not enrolled in a  
30 special education school.

1           (2) Support level 2. The student is enrolled in a  
2           special education school.

3           "Tax credit." The educational improvement tax credit  
4           established under this subarticle.

5           Section 2522-B. Qualification and application.

6           (a) Establishment.--In accordance with section 14 of Article  
7           III of the Constitution of Pennsylvania, an educational  
8           improvement tax credit program is established to enhance the  
9           educational opportunities available to all students in this  
10          Commonwealth.

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

18          (c) Scholarship organizations and prekindergarten  
19          scholarship organizations.--A scholarship organization or  
20          prekindergarten scholarship organization must certify to the  
21          department that the organization is eligible to participate in  
22          the program established under this subarticle and must agree to  
23          annually report the following information to the department by  
24          September 1 of each year:

25                 (1) (i) The number of scholarships awarded during the  
26                 immediately preceding school year to eligible  
27                 prekindergarten students.

28                 (ii) The total and average amounts of scholarships  
29                 awarded during the immediately preceding school year to  
30                 eligible prekindergarten students.

1           (iii) The number of scholarships awarded during the  
2 immediately preceding school year to eligible students in  
3 grades kindergarten through eight.

4           (iv) The total and average amounts of scholarships  
5 awarded during the immediately preceding school year to  
6 eligible students in grades kindergarten through eight.

7           (v) The number of scholarships awarded during the  
8 immediately preceding school year to eligible students in  
9 grades 9 through 12.

10           (vi) The total and average amounts of scholarships  
11 awarded during the immediately preceding school year to  
12 eligible students in grades 9 through 12.

13           (vii) Where the scholarship organization or  
14 prekindergarten scholarship organization collects  
15 information on a county-by-county basis, the total number  
16 and the total dollar amount of scholarships awarded  
17 during the immediately preceding school year to residents  
18 of each county in which the scholarship organization or  
19 prekindergarten scholarship organization awarded  
20 scholarships.

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

28           (3) The department may not require any other information  
29 to be provided by scholarship organizations or  
30 prekindergarten scholarship organizations, except as

1 expressly authorized in this subarticle.

2 (d) Educational improvement organization.--

3 (1) An application submitted by an educational  
4 improvement organization must describe its proposed  
5 innovative educational program or programs in a form  
6 prescribed by the department. In prescribing the form, the  
7 department shall consult with the Department of Education as  
8 necessary. The department shall review and approve or  
9 disapprove the application. In order to be eligible to  
10 participate in the program established under this subarticle,  
11 an educational improvement organization must agree to  
12 annually report the following information to the department  
13 by September 1 of each year:

14 (i) The name of the innovative educational program  
15 or programs and the total amount of the grant or grants  
16 made to those programs during the immediately preceding  
17 school year.

18 (ii) A description of how each grant was utilized  
19 during the immediately preceding school year and a  
20 description of any demonstrated or expected innovative  
21 educational improvements.

22 (iii) The names of the public schools and school  
23 districts where innovative educational programs that  
24 received grants during the immediately preceding school  
25 year were implemented.

26 (iv) Where the educational improvement organization  
27 collects information on a county-by-county basis, the  
28 total number and the total dollar amount of grants made  
29 during the immediately preceding school year for programs  
30 at public schools in each county in which the educational

1 improvement organization made grants.

2 (2) The information required under paragraph (1) shall  
3 be submitted on a form provided by the department. No later  
4 than May 1 of each year, the department shall annually  
5 distribute the sample forms, together with the forms on which  
6 the reports are required to be made, to each listed  
7 educational improvement organization.

8 (3) The department may not require any other information  
9 to be provided by educational improvement organizations,  
10 except as expressly authorized in this subarticle.

11 (e) Notification.--The department shall notify the  
12 scholarship organization, prekindergarten scholarship  
13 organization or educational improvement organization that the  
14 organization meets the requirements of this subarticle for that  
15 fiscal year no later than 60 days after the organization has  
16 submitted the information required under this section.

17 (f) Publication.--The department shall annually publish a  
18 list of each scholarship organization, prekindergarten  
19 scholarship organization or educational improvement organization  
20 qualified under this section in the Pennsylvania Bulletin. The  
21 list shall also be posted and updated as necessary on the  
22 publicly accessible Internet website of the department.

23 Section 2523-B. Application.

24 (a) Scholarship organization or prekindergarten scholarship  
25 organization.--A business firm shall apply to the department for  
26 a tax credit. A business firm shall receive a tax credit if the  
27 scholarship organization or prekindergarten scholarship  
28 organization that receives the contribution appears on the list  
29 established under section 2522-B(f).

30 (b) Educational improvement organization.--A business firm

1 must apply to the department for a tax credit. A business firm  
2 shall receive a tax credit if the department has approved the  
3 program provided by the educational improvement organization  
4 that receives the contribution.

5 (c) Availability of tax credits.--Tax credits shall be made  
6 available by the department on a first-come-first-served basis  
7 within the limitations established under section 2525-B(a).

8 (d) Contributions.--A contribution by a business firm to a  
9 scholarship organization, prekindergarten scholarship  
10 organization or educational improvement organization shall be  
11 made no later than 60 days following the approval of an  
12 application under subsection (a) or (b).

13 Section 2524-B. Tax credit.

14 (a) Scholarship or educational improvement organizations.--  
15 In accordance with section 2525-B(a), the Department of Revenue  
16 shall grant a tax credit against any tax due under Article III,  
17 IV, VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,  
18 No.2), known as the Tax Reform Code of 1971, to a business firm  
19 providing proof of a contribution to a scholarship organization  
20 or educational improvement organization in the taxable year in  
21 which the contribution is made which shall not exceed 75% of the  
22 total amount contributed during the taxable year by the business  
23 firm. For the fiscal year 2011-2012, the tax credit shall not  
24 exceed \$400,000 annually per business firm for contributions  
25 made to scholarship organizations and educational improvement  
26 organizations. For the fiscal year 2012-2013, the tax credit  
27 shall not exceed \$750,000 annually per business firm for  
28 contributions made to scholarship organizations or educational  
29 improvement organizations.

30 (b) Additional amount.--The Department of Revenue shall

1 grant a tax credit of up to 90% of the total amount contributed  
2 during the taxable year if the business firm provides a written  
3 commitment to provide the scholarship organization or  
4 educational improvement organization with the same amount of  
5 contribution for two consecutive tax years. The business firm  
6 must provide the written commitment under this subsection to the  
7 department at the time of application.

8 (c) Prekindergarten scholarship organizations.--In  
9 accordance with section 2525-B(a), the Department of Revenue  
10 shall grant a tax credit against any tax due under Article III,  
11 IV, VI, VII, VIII, IX or XV of the Tax Reform Code of 1971 to a  
12 business firm providing proof of a contribution to a  
13 prekindergarten scholarship organization in the taxable year in  
14 which the contribution is made which shall be equal to 100% of  
15 the first \$10,000 contributed during the taxable year by the  
16 business firm, and which shall not exceed 90% of the remaining  
17 amount contributed during the taxable year by the business firm.  
18 For the fiscal year 2011-2012, the tax credit shall not exceed  
19 \$200,000 annually per business firm for contributions made to  
20 prekindergarten scholarship organizations. For the fiscal year  
21 2012-2013, the tax credit shall not exceed \$250,000 annually per  
22 business firm for contributions made to prekindergarten  
23 scholarship organizations.

24 (d) Combination of tax credits.--A business firm may receive  
25 tax credits from the Department of Revenue in any tax year for  
26 any combination of contributions under subsection (a), (b) or  
27 (c). In no case may a business firm receive tax credits in any  
28 tax year in excess of \$750,000 for contributions under  
29 subsections (a) and (b). In no case shall a business firm  
30 receive tax credits in any tax year in excess of \$250,000 for

1 contributions under subsection (c).

2 (e) Pass-through entity.--

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

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

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

21 (4) The shareholder, member or partner may claim the  
22 credit on a joint return, but the tax credit may not exceed  
23 the separate income of that shareholder, member or partner.

24 (f) Restriction on applicability of credits.--No tax credits  
25 shall be applied against any tax withheld by an employer from an  
26 employee under Article III of the Tax Reform Code of 1971.

27 (g) Time of application for credits.--

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

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

6 Section 2525-B. Limitations.

7 (a) Amount.--

8       (1) (i) For the fiscal year 2011-2012, the total  
9 aggregate amount of all tax credits approved shall not  
10 exceed \$100,000,000.

11       (ii) Not more than \$67,000,000 of the total  
12 aggregate amount of all tax credits approved shall be  
13 used to provide tax credits for contributions from  
14 business firms to scholarship organizations.

15       (iii) Not more than \$25,000,000 of the total  
16 aggregate amount of all tax credits approved shall be  
17 used to provide tax credits for contributions from  
18 business firms to educational improvement organizations.

19       (iv) Not more than \$8,000,000 of the total aggregate  
20 amount of all tax credits approved shall be used to  
21 provide tax credits for contributions from business firms  
22 to prekindergarten scholarship organizations.

23       (2) (i) In the fiscal year 2012-2013 and each fiscal  
24 year thereafter, the total aggregate amount of all tax  
25 credits approved shall not exceed \$200,000,000.

26       (ii) Not more than \$120,000,000 of the total  
27 aggregate amount of all tax credits approved shall be  
28 used to provide tax credits for contributions from  
29 business firms to scholarship organizations.

30       (iii) Not more than \$60,000,000 of the total

1 aggregate amount of all tax credits approved shall be  
2 used to provide tax credits for contributions from  
3 business firms to educational improvement organizations.

4 (iv) Not more than \$20,000,000 of the total  
5 aggregate amount of all tax credits approved shall be  
6 used to provide tax credits for contributions from  
7 business firms to prekindergarten scholarship  
8 organizations.

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

12 (c) Tax liability.--

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

16 (2) In the case of a credit granted to a pass-through  
17 entity which elects to transfer the credit according to  
18 section 2524-B(e), a tax credit granted for any one taxable  
19 year and transferred to a shareholder, member or partner may  
20 not exceed the tax liability of the shareholder, member or  
21 partner.

22 (d) Use.--A tax credit not used by the applicant in the  
23 taxable year the contribution was made or in the year designated  
24 by the shareholder, member or partner to whom the credit was  
25 transferred under section 2524-B(e) may not be carried forward  
26 or carried back and is not refundable or transferable.

27 (e) Nontaxable income.--A scholarship received by an  
28 eligible student or eligible prekindergarten student shall not  
29 be considered to be taxable income for the purposes of Article  
30 III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax

1 Reform Code of 1971.

2 Section 2526-B. Lists.

3 The Department of Revenue shall provide to the General  
4 Assembly, by June 30 of each year, a list of all scholarship  
5 organizations, prekindergarten scholarship organizations and  
6 educational improvement organizations that receive contributions  
7 from business firms granted a tax credit.

8 Section 2527-B. Guidelines.

9 The department, in consultation with the Department of  
10 Education, shall develop guidelines to determine the eligibility  
11 of an innovative educational program.

12 Section 2. Repeals are as follows:

13 (1) The General Assembly declares that the repeal under  
14 paragraph (2) is necessary to effectuate the addition of  
15 Subarticle (C) of Article XXV-B of the act.

16 (2) Article XVII-F and section 2902-E(b) of the act of  
17 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
18 1971, are repealed.

19 Section 3. The provisions of Article XXV-B of the act are  
20 severable. If any provision of that article or its application  
21 to any person or circumstance is held invalid, the invalidity  
22 shall not affect other provisions or applications of that  
23 article which can be given effect without the invalid provision  
24 or application.

25 Section 4. This act shall take effect as follows:

26 (1) The following provisions shall take effect July 1,  
27 2012, or immediately, whichever is later:

28 (i) The addition of Subarticle (C) of Article XXV-B  
29 of the act.

30 (ii) Section 2 of this act.

1           (2) The remainder of this act shall take effect  
2    immediately.