

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 1****Session of
2011**

INTRODUCED BY PICCOLA, WILLIAMS, SCARNATI, PILEGGI, FOLMER,
BROWNE, SMUCKER, ALLOWAY, ERICKSON, RAFFERTY, EICHELBERGER,
PIPPY, D. WHITE, MENSCH, BRUBAKER, WASHINGTON AND STACK,
JANUARY 26, 2011

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, APRIL
11, 2011

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 Excess Scholarship Fund;
7 providing for educational improvement tax credit; and
8 repealing provisions of the Tax Reform Code of 1971 relating
9 to educational improvement tax credit.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

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

15 ARTICLE XXV-B

16 OPPORTUNITY SCHOLARSHIPS AND

17 EDUCATIONAL IMPROVEMENT TAX CREDIT

18 (a) Preliminary Provisions

19 Section 2501-B. Short title.

20 This article shall be known and may be cited as the

1 Opportunity Scholarship and Educational Improvement Tax Credit
2 Act.

3 (b) Opportunity Scholarships

4 Section 2501.1-B. Legislative findings.

5 The General Assembly finds that:

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

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

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

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

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

30 (6) The accessibility to families of nonpublic

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

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

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

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

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

23 (11) A comparatively far greater proportion of public
24 funds are and, upon implementation of an educational choice
25 program, will continue to be devoted to the benefit of
26 children enrolled in the public schools of this Commonwealth.
27 Therefore, an opportunity scholarship program that offers
28 assistance to parents who choose to enroll their children in
29 participating nonpublic schools should be viewed as an
30 integral part of the Commonwealth's overall program of

1 educational funding and not as an isolated individual
2 program.

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

13 Section 2502-B. Definitions.

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

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

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

28 "Board." The Education Opportunity Board established under
29 this subarticle.

30 "Department." The Department of Education of the

1 Commonwealth.

2 "Excess Scholarship Fund" or "Fund." The Excess Scholarship
3 Fund established in this subarticle.

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

8 "Fund." The Excess Scholarship Fund established in this
9 subarticle.

10 "Household income." Income as used for the purposes of
11 determining eligibility for a free ~~or reduced price~~ lunch under ←
12 the Richard B. Russell National School Lunch Act (60 Stat. 230,
13 1751 et seq.).

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

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

17 (1) Funded by the local revenues of a low-income child's
18 resident school district in an amount equal to at least 35%
19 of the school district's share of its total revenue per
20 average daily membership.

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

23 "Low-income child." A school-age child with a household
24 income that does not exceed 1.3 times the Federal poverty line
25 for the school year preceding the school year for which an
26 opportunity scholarship is to be distributed.

27 "MIDDLE-INCOME CHILD." A SCHOOL-AGE CHILD WITH A HOUSEHOLD ←
28 INCOME THAT DOES NOT EXCEED THREE TIMES THE FEDERAL POVERTY LINE
29 FOR THE SCHOOL YEAR IMMEDIATELY PRECEDING THE SCHOOL YEAR FOR
30 WHICH AN OPPORTUNITY SCHOLARSHIP IS TO BE DISTRIBUTED.

1 "MIDDLE-INCOME SCHOLARSHIP." A MIDDLE-INCOME SCHOLARSHIP
2 AWARDED TO A MIDDLE-INCOME CHILD UNDER THIS SUBARTICLE TO PAY
3 TUITION FOR THE CHILD TO ATTEND A NONRESIDENT PUBLIC SCHOOL OR A
4 PARTICIPATING NONPUBLIC SCHOOL.

5 "MIDDLE-INCOME SCHOLARSHIP RECIPIENT." A MIDDLE-INCOME CHILD
6 WHO IS AWARDED A MIDDLE-INCOME SCHOLARSHIP UNDER THIS
7 SUBARTICLE.

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

15 "Nonresident public school." A public school outside a
16 child's resident school district.

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

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

21 "Opportunity scholarship." An opportunity scholarship
22 awarded to a low-income child under this subarticle to pay
23 tuition for the child to attend a nonresident public school or a
24 participating nonpublic school.

25 "Opportunity scholarship program" or "program." The
26 opportunity scholarship program established under this
27 subarticle.

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

30 "Parent." A Commonwealth resident who is a parent or

1 guardian of a school-age child.

2 "Participating nonpublic school." A nonpublic school located
3 in this Commonwealth and offering a program of instruction for
4 kindergarten through 12th grade, or a combination of grades,
5 that certifies to the board under section 2505-B that it meets
6 the following criteria:

7 (1) the nonpublic school is a nonprofit entity that is
8 exempt from Federal taxation under section 501(c)(3) of the
9 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §
10 1 et seq.);

11 (2) the nonpublic school does not discriminate in its
12 admission policies or practices for opportunity scholarship
13 applicants on the basis of measures of achievement or
14 aptitude or status as a handicapped person, provided,
15 however, that an applicant may be required to meet
16 established eligibility criteria for participation in magnet
17 schools or in schools with specialized academic missions; and

18 (3) the nonpublic school is in full compliance with all
19 Federal and State laws APPLICABLE TO NONPUBLIC SCHOOLS ON THE ←
20 DATE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

21 "Persistently lowest achieving school." A public elementary or
22 secondary school within this Commonwealth achieving within the ←
23 lowest measured group of 5% on the most recent assessment for
24 which data is posted on the Department of Education's publicly
25 accessible Internet website. The term does not include a charter
26 school, cyber charter school, area vocational technical school,
27 a school that does not draw its student body from a particular
28 attendance boundary or a school with a specialized academic
29 program that has specific admissions criteria. THAT IS AMONG THE ←
30 LOWEST PERFORMING 5% OF SCHOOLS. TO DETERMINE THE LOWEST

1 PERFORMING 5% OF SCHOOLS, THE DEPARTMENT SHALL:

2 (1) CONSIDER ALL PUBLIC SCHOOLS IN THIS COMMONWEALTH,
3 WITH THE EXCEPTION OF CHARTER SCHOOLS, CYBER CHARTER SCHOOLS,
4 AREA VOCATIONAL-TECHNICAL SCHOOLS, SCHOOLS THAT DO NOT DRAW
5 THEIR STUDENT BODY FROM A PARTICULAR ATTENDANCE BOUNDARY AND
6 SCHOOLS WITH SPECIALIZED ACADEMIC PROGRAMS WITH SPECIFIC
7 ADMISSIONS CRITERIA;

8 (2) EXCLUDE SCHOOLS THAT HAVE MADE ADEQUATE YEARLY
9 PROGRESS OR WERE DETERMINED TO BE MAKING PROGRESS FOR AT
10 LEAST ONE OF THE TWO MOST RECENT SCHOOL YEARS OR THAT HAVE
11 NOT BEEN MEASURED FOR ADEQUATE YEARLY PROGRESS IN ONE OF THE
12 TWO MOST RECENT SCHOOL YEARS;

13 (3) RANK ALL REMAINING SCHOOLS BASED UPON THEIR
14 PERFORMANCE ON THE MOST RECENT ASSESSMENT FOR WHICH DATA IS
15 POSTED ON THE DEPARTMENT'S PUBLICLY ACCESSIBLE INTERNET
16 WEBSITE; AND

17 (4) INCLUDE THE LOWEST-PERFORMING 144 SCHOOLS RANKED
18 UNDER PARAGRAPH (3) ON A LIST OF PERSISTENTLY LOWEST-
19 ACHIEVING SCHOOLS.

20 "Resident school district." The school district in which a
21 school-age child resides.

22 "School-age child." A child enrolling in kindergarten or in
23 grades 1 through 12.

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

29 "Total revenue per average daily membership." A school
30 district's total revenue per average daily membership minus the

1 amount of reimbursement to the school district for pupil
2 transportation under ~~section~~ SECTIONS 2509.3 AND 2541.



3 Section 2503-B. Opportunity scholarship program.

4 (a) Establishment.--Beginning with the 2011-2012 school
5 year, the opportunity scholarship program shall be established
6 to provide scholarships to help low-income children pay tuition
7 to attend a nonresident public school or a participating
8 nonpublic school.

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

11 (1) During the 2011-2012 school year, the opportunity
12 scholarship program shall be available to low-income children
13 who satisfy both of the following:

14 (i) Either attended a persistently lowest achieving
15 school during the 2010-2011 school year or will be a
16 kindergarten student during the 2011-2012 school year.

17 (ii) Will reside within the attendance boundary of a
18 persistently lowest achieving school ~~during~~ AS OF THE
19 FIRST DAY OF CLASSES OF the 2011-2012 school year.



20 (2) During the 2012-2013 school year, the opportunity
21 scholarship program shall be available to low-income children
22 who qualified for the program for the 2011-2012 school year
23 under paragraph (1) and to low-income children who will
24 reside within the attendance boundary of a persistently
25 lowest achieving school ~~during~~ AS OF THE FIRST DAY OF CLASSES
26 OF the 2012-2013 school year.



27 ~~(3) During the 2013-2014 school year and each school~~



28 (3) (I) DURING THE 2013-2014 SCHOOL YEAR AND EACH
29 SCHOOL year thereafter, the opportunity scholarship
30 program shall be available to all low-income children



1 residing in this Commonwealth, PROVIDED THAT THE ←
2 AGGREGATE AMOUNT OF ALL OPPORTUNITY SCHOLARSHIPS AWARDED
3 FOR THE 2013-2014 SCHOOL YEAR AND FOR EACH SCHOOL YEAR
4 THEREAFTER TO LOW-INCOME CHILDREN WHO DO NOT RESIDE
5 WITHIN THE ATTENDANCE BOUNDARY OF A PERSISTENTLY LOWEST
6 ACHIEVING SCHOOL AS OF THE FIRST DAY OF CLASSES OF THE
7 SCHOOL YEAR SHALL NOT EXCEED \$250,000,000.

8 (II) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO
9 LIMIT THE AMOUNT OF OPPORTUNITY SCHOLARSHIPS AWARDED TO
10 LOW-INCOME CHILDREN WHO WERE ELIGIBLE FOR OPPORTUNITY
11 SCHOLARSHIPS IN THE 2011-2012 AND 2012-2013 SCHOOL YEARS
12 OR WHO RESIDE WITHIN THE ATTENDANCE BOUNDARY OF A
13 PERSISTENTLY LOWEST ACHIEVING SCHOOL AS OF THE FIRST DAY
14 OF CLASSES OF A SCHOOL YEAR.

15 (c) List of persistently lowest achieving schools to be
16 published.--By April 1, 2011, and by February 1 of each year
17 thereafter, the department shall publish on the department's
18 publicly accessible Internet website and in the Pennsylvania
19 Bulletin a list of persistently lowest achieving schools that
20 will be in effect for purposes of this subarticle for the
21 following school year. The department shall publish the list
22 based upon the most recent school year for which data is
23 available.

24 (d) Notice to residents with school age children.-- ←

25 (1) By May 1, 2011, and by March 1 of each year ←
26 thereafter FOR EACH SCHOOL YEAR, BY A DATE ESTABLISHED BY THE ←
27 BOARD, each school district in this Commonwealth shall
28 provide all residents of the school district with school age ←
29 children with POST ON ITS PUBLICLY ACCESSIBLE INTERNET ←
30 WEBSITE notice of the following:

1 (i) A description of the opportunity scholarship
2 program.

3 (ii) Instructions for applying for an opportunity
4 scholarship.

5 (iii) Instructions for applying for a local
6 scholarship where the school district has elected to
7 provide a local scholarship under section 2504-B(b).

8 (iv) A statement as to whether any schools in the
9 school district have been designated by the department as
10 persistently lowest achieving schools.

11 (v) Notice that a parent must contact directly the
12 nonresident public school or participating nonpublic
13 school in which the parent's child seeks to enroll for
14 application instructions.

15 ~~(2) The school district shall provide such notice by~~ ←
16 ~~mail to all residents of the school district with school age~~
17 ~~children and by notice posted on the school district's~~
18 ~~publicly accessible Internet website.~~ The notice shall be in
19 a form provided by the board.

20 Section 2504-B. Opportunity scholarship to attend a nonresident
21 public school.

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

27 (b) Local scholarship.--A school district may elect to
28 provide a local scholarship to low-income children residing
29 within the school district to pay tuition to attend a
30 nonresident public school that accepts a child's enrollment

1 application under subsection (d). A school district that elects
2 to provide a local scholarship shall:

3 (1) ~~By May 1, 2011, and by March 1 of each year~~ ←
4 ~~thereafter~~ A DATE ESTABLISHED BY THE BOARD, notify all ←
5 residents of the school district ~~with school age children of~~ ←
6 the availability and amount of the local scholarship for the
7 following school year and the process by which a low-income
8 child may apply to the board to receive the opportunity and
9 local scholarships. The school district shall ~~provide the~~ ←
10 ~~notice by mail to all residents of the school district with~~
11 ~~school age children and by notice posted~~ POST THE NOTICE on ←
12 the school district's publicly accessible Internet website.
13 The notice may be incorporated into the notice the school
14 district is required to provide under section 2503-B(d).

15 (2) ~~By May 1, 2011, and by March 1 of each year~~ ←
16 ~~thereafter~~ A DATE ESTABLISHED BY THE BOARD, notify the board ←
17 of the availability and amount of the local scholarship for
18 the following school year.

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

24 (4) Comply with all guidelines developed by the board
25 under section 2509-B.

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

27 (1) ~~By June 1, 2011, and by April 1 of each year~~ ←
28 ~~thereafter,~~ A DATE ESTABLISHED BY THE BOARD AND pursuant to ←
29 guidelines developed by the board under section 2509-B, the
30 parent of a low-income child may apply to the board:

1 (i) For an opportunity scholarship for the following
2 school year.

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

7 ~~(2) By July 1, 2011, and by May 1 of each year~~ ←
8 ~~thereafter~~ A DATE ESTABLISHED BY THE BOARD, the board shall ←
9 notify parents whether the scholarships for which the student
10 applied will be awarded for the following school year.

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

13 ~~(1) By July 15, 2011, and by June 1 of each year~~ ←
14 ~~thereafter~~ A DATE ESTABLISHED BY THE BOARD, the parent of a ←
15 low-income child who has been awarded a scholarship under
16 subsection (c) may apply to one or more nonresident public
17 schools for enrollment of the child for the following school
18 year. The application shall be on a form provided by the
19 nonresident school district.

20 ~~(2) (i) The~~ BY A DATE ESTABLISHED BY THE BOARD, THE ←
21 nonresident school district shall provide written notice
22 to the parent and the board by August 1, 2011, and by ←
23 July 1 of each year thereafter, as to whether the child
24 will be offered enrollment in the requested nonresident
25 public school for the following school year.

26 ~~(ii) Within ten days of receipt of the notice~~ BY A ←
27 DATE ESTABLISHED BY THE BOARD, the parent must provide
28 written notice to the board, the resident school district
29 and the nonresident school district whether the offer of
30 enrollment will be accepted.

1 (III) BY A DATE ESTABLISHED BY THE BOARD, THE BOARD ←
2 SHALL PROVIDE THE RESIDENT SCHOOL DISTRICT AND THE
3 NONRESIDENT SCHOOL DISTRICT WITH WRITTEN CONFIRMATION OF
4 THE OPPORTUNITY SCHOLARSHIP RECIPIENT'S ENROLLMENT IN THE
5 NONRESIDENT SCHOOL DISTRICT.

6 ~~(iii)~~ (IV) If the child is not enrolled in a ←
7 nonresident public school, the child's resident school
8 district shall determine the public school within the
9 resident school district to which the child will be
10 assigned.

11 (3) Each school district shall develop guidelines
12 setting forth the terms and conditions under which it will
13 enroll nonresident students receiving opportunity and local
14 scholarships and shall develop an enrollment application form
15 and process. If a school district determines to enroll
16 nonresident students receiving opportunity and local
17 scholarships, the school district must enroll such
18 nonresident students on a ~~first applied first accepted~~ basis ←
19 RANDOM BASIS FROM A POOL OF APPLICANTS WHO MEET THE ←
20 APPLICATION DEADLINE ESTABLISHED BY THE BOARD, provided that:

21 (i) the nonresident student's enrollment in the
22 nonresident school district would not place either the
23 nonresident school district or the resident school
24 district in violation of a valid and binding
25 desegregation order;

26 (ii) the nonresident student has not been expelled
27 nor is the nonresident student in the process of being
28 expelled under section 1317.2 or 1318 and applicable
29 regulations of the State Board of Education;

30 (iii) the nonresident student has not been recruited

1 by the school district or its representatives for
2 athletic purposes; or

3 (iv) the nonresident student meets the established
4 eligibility criteria for participation in a magnet school
5 or in a public school with a specialized academic
6 mission.

7 (4) A nonresident school district may give priority in
8 enrollment to a nonresident student who has been awarded a
9 local scholarship.

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

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

19 (2) (i) For a nonresident student who is an opportunity
20 scholarship recipient and defined as a "student with a
21 disability," services provided to the opportunity
22 scholarship recipient shall be charged against the
23 Commonwealth's special education subsidy to the resident
24 school district, provided that the resident school
25 district shall not be charged more for services provided
26 to the opportunity scholarship recipient by the
27 nonresident school district than the difference between
28 the current year cost of the services had the opportunity
29 scholarship recipient remained in the resident school
30 district and the sum of the opportunity scholarship, the

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

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

12 (3) An opportunity scholarship recipient shall be
13 included in the average daily membership of the opportunity
14 scholarship recipient's resident school district.

15 (4) IN THE EVENT AN OPPORTUNITY SCHOLARSHIP RECIPIENT
16 WITHDRAWS FROM A NONRESIDENT SCHOOL DISTRICT PRIOR TO THE
17 COMPLETION OF THE SCHOOL YEAR, THE FOLLOWING SHALL APPLY:

18 (I) THE NONRESIDENT SCHOOL DISTRICT SHALL, WITHIN 15
19 DAYS OF THE OPPORTUNITY SCHOLARSHIP RECIPIENT'S
20 WITHDRAWAL FROM THE NONRESIDENT SCHOOL DISTRICT, PROVIDE
21 THE BOARD WITH WRITTEN NOTICE OF THE OPPORTUNITY
22 SCHOLARSHIP RECIPIENT'S WITHDRAWAL FROM THE NONRESIDENT
23 SCHOOL DISTRICT.

24 (II) THE RESIDENT SCHOOL DISTRICT, NONRESIDENT
25 SCHOOL DISTRICT OR PARTICIPATING NONPUBLIC SCHOOL IN
26 WHICH THE OPPORTUNITY SCHOLARSHIP RECIPIENT SUBSEQUENTLY
27 ENROLLS SHALL NOTIFY THE BOARD WITHIN FIVE DAYS OF THE
28 OPPORTUNITY SCHOLARSHIP RECIPIENT'S ENROLLMENT.

29 (III) WITHIN 30 DAYS AFTER RECEIVING THE NOTICE
30 REQUIRED UNDER SUBPARAGRAPH (II), THE BOARD SHALL DO THE



1 FOLLOWING:

2 (A) IF THE OPPORTUNITY SCHOLARSHIP RECIPIENT
3 ENROLLS IN THE RESIDENT SCHOOL DISTRICT OR A
4 NONRESIDENT SCHOOL DISTRICT, PAY THE RESIDENT SCHOOL
5 DISTRICT OR NONRESIDENT SCHOOL DISTRICT THE FULL
6 AMOUNT OF THE OPPORTUNITY SCHOLARSHIP PAYMENT REDUCED
7 ON A PRO RATA BASIS FOR THE PORTION OF THE SCHOOL
8 YEAR IN WHICH THE OPPORTUNITY SCHOLARSHIP RECIPIENT
9 WAS ENROLLED IN ANOTHER SCHOOL.

10 (B) IF THE OPPORTUNITY SCHOLARSHIP RECIPIENT
11 ENROLLS IN A PARTICIPATING NONPUBLIC SCHOOL, PAY THE
12 OPPORTUNITY SCHOLARSHIP RECIPIENT'S PARENT THE FULL
13 AMOUNT OF THE OPPORTUNITY SCHOLARSHIP PAYMENT REDUCED
14 ON A PRO RATA BASIS FOR THE PORTION OF THE SCHOOL
15 YEAR IN WHICH THE OPPORTUNITY SCHOLARSHIP RECIPIENT
16 WAS ENROLLED IN ANOTHER SCHOOL. SUCH PAYMENT SHALL BE
17 MADE TO THE PARENTS OF THE OPPORTUNITY SCHOLARSHIP
18 RECIPIENT PURSUANT TO THE PROVISIONS OF SECTION
19 2505-B(B).

20 (f) Limitation.--The tuition charged by a nonresident school
21 district to an opportunity scholarship recipient under this
22 subarticle shall not exceed the sum of the opportunity
23 scholarship and the local scholarship, IF APPLICABLE, awarded to ←
24 the opportunity scholarship recipient.

25 (g) Transportation.--

26 (1) Notwithstanding any provisions of section 1361 to
27 the contrary, a school district that provides its resident
28 public school pupils with transportation to and from the
29 resident public schools or to and from any points within or
30 without this Commonwealth in order to provide field trips

1 under section 1361 shall provide a student who resides within
2 the school district but regularly attends a nonresident
3 public school, including a charter school, that is located
4 not more than ten miles from the student's resident school
5 district by the nearest public highway, with transportation
6 to and from such nonresident public school or to and from any
7 points within or without this Commonwealth in order to
8 provide field trips under section 1361.

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

11 Section 2505-B. Opportunity ~~scholarships~~ SCHOLARSHIP to attend ←
12 a participating nonpublic school.

13 (a) Eligibility.--The parent of a low-income child who is
14 eligible to receive an opportunity scholarship under section
15 2503-B and desires to apply for an opportunity scholarship to
16 attend a participating nonpublic school must:

17 (1) ~~By June 1, 2011, and by April 1 of each year~~ ←
18 ~~thereafter~~ A DATE ESTABLISHED BY THE BOARD, apply to the ←
19 board for an opportunity scholarship for the following school
20 year pursuant to guidelines developed by the board under
21 section 2509-B. ~~By July 1, 2011, and by May 1 of each year~~ ←
22 ~~thereafter~~ A DATE ESTABLISHED BY THE BOARD, the board shall ←
23 notify parents whether the opportunity scholarship will be
24 awarded for the following school year.

25 (2) Apply for enrollment directly to the participating
26 nonpublic school pursuant to application procedures developed
27 by the participating nonpublic school. ~~By August 1, 2011, and~~ ←
28 ~~by July 1 of each year thereafter~~ A DATE ESTABLISHED BY THE ←
29 BOARD, a participating nonpublic school shall provide written
30 confirmation to the board of each opportunity scholarship

1 recipient whose application for enrollment has been accepted
2 for the following school year. BY A DATE ESTABLISHED BY THE ←
3 BOARD, THE BOARD 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 scholarship awards.--The
8 Commonwealth shall provide payment of an opportunity scholarship
9 to the 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) Opportunity scholarships shall be awarded only for
14 the payment of costs of tuition at a participating nonpublic
15 school within this Commonwealth. Opportunity scholarships
16 shall not be awarded for enrollment in a home education
17 program provided under section 1327.1.

18 (2) Opportunity scholarships shall be paid to the
19 parents of an opportunity scholarship recipient upon the
20 board's receipt of written confirmation of enrollment from
21 the participating nonpublic school selected by the recipient.
22 The opportunity scholarship award shall be paid by check
23 which may be endorsed by the parents only for payment of
24 tuition at the participating nonpublic school at which the
25 opportunity scholarship recipient's enrollment has been
26 confirmed.

27 (3) In the event an opportunity scholarship recipient is ←
28 ~~no longer enrolled in~~ WITHDRAWS FROM a participating ←
29 nonpublic school prior to the completion of the school year,
30 the following shall apply:

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

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

7 (B) Return to the opportunity scholarship ←
8 recipient's parent BOARD the full amount of the ←
9 opportunity scholarship payment reduced on a pro rata
10 basis by the tuition for the portion of the school
11 year in which the opportunity scholarship recipient
12 was enrolled. The amount returned to the parent under ←
13 this paragraph shall be paid by check which may be
14 endorsed by the parents only for repayment to the
15 board of the refunded opportunity scholarship award.

16 (ii) If the parents of the opportunity scholarship ←
17 recipient fail to submit to the board the full amount of
18 the opportunity scholarship returned to the parents under
19 subparagraph (i) within 15 days of receipt of
20 notification from the board that such payment is due
21 PARTICIPATING NONPUBLIC SCHOOL FAILS TO SUBMIT TO THE ←
22 BOARD THE AMOUNT REQUIRED TO BE PAID UNDER SUBPARAGRAPH
23 (I), the board shall impose interest on the unpaid
24 amount, calculated from the due date at the rate
25 determined by the Secretary of Revenue for interest
26 payments on overdue taxes or the refund of taxes as
27 provided in sections 806 and 806.1 of the act of April 9,
28 1929 (P.L.343, No.176), known as The Fiscal Code.

29 (iii) If a parent who is required to submit a refund ←
30 to the board under subparagraph (ii) fails to submit the

~~full amount of the required refund to the board within
180 days of written demand thereof, the board shall also
impose a civil penalty not to exceed the full amount of
the annual opportunity scholarship award made to the
parents and disqualification from future eligibility for
an opportunity scholarship.~~

~~(iv) (III) If the opportunity scholarship recipient
enrolls in another participating nonpublic school within
the school year for which the opportunity scholarship was
awarded, the board shall pay the parent of the
opportunity scholarship recipient the opportunity
scholarship award prorated for the remaining portion of
the school year.~~

~~(4) IN THE EVENT AN OPPORTUNITY SCHOLARSHIP RECIPIENT IS
EXPELLED FROM A PARTICIPATING NONPUBLIC SCHOOL PRIOR TO THE
COMPLETION OF THE SCHOOL YEAR AND THE OPPORTUNITY SCHOLARSHIP
RECIPIENT SUBSEQUENTLY ENROLLS IN HIS RESIDENT SCHOOL
DISTRICT, THE BOARD SHALL PAY THE RESIDENT SCHOOL DISTRICT
THE OPPORTUNITY SCHOLARSHIP AWARD PRORATED FOR THE REMAINING
PORTION OF THE SCHOOL YEAR. THE RESIDENT SCHOOL DISTRICT
SHALL APPLY THIS AMOUNT TOWARD PROVIDING EDUCATIONAL SERVICES
FOR THE OPPORTUNITY SCHOLARSHIP RECIPIENT, WHICH MAY INCLUDE,
BUT SHALL NOT BE LIMITED TO, AN ALTERNATIVE ASSIGNMENT OR
ALTERNATIVE EDUCATION SERVICES.~~

~~(B.1) PENALTIES.--~~

~~(1) EACH OPPORTUNITY SCHOLARSHIP CHECK ISSUED UNDER THIS
SECTION SHALL CONTAIN THE FOLLOWING STATEMENT:~~

~~"FAILURE TO ENDORSE THIS CHECK AS DIRECTED BY THE
BOARD MAY SUBJECT THE ENDORSER TO CIVIL PENALTIES AND
CRIMINAL PROSECUTION."~~

1 (2) A PARENT'S ENDORSEMENT OR USE OF AN OPPORTUNITY
2 SCHOLARSHIP CHECK IN A MANNER OTHER THAN AS DIRECTED BY THE
3 DEPARTMENT MAY SUBJECT THE PARENT TO THE FOLLOWING PENALTIES:

4 (I) A CIVIL PENALTY EQUAL TO 300% OF THE FULL AMOUNT
5 OF THE ANNUAL OPPORTUNITY SCHOLARSHIP AWARD MADE TO THE
6 PARENT.

7 (II) DISQUALIFICATION FROM FUTURE ELIGIBILITY FOR AN
8 OPPORTUNITY SCHOLARSHIP.

9 (III) CRIMINAL PROSECUTION.

10 (c) Enrollment requirements.--The following shall apply to a
11 participating nonpublic school which admits an opportunity
12 scholarship recipient:

13 (1) The participating nonpublic school shall not
14 discriminate on any basis that is illegal under Federal or
15 State law LAWS APPLICABLE TO NONPUBLIC SCHOOLS ON THE DATE ←
16 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

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

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

22 (4) By June 1, 2011, and by April 1 of each year ←
23 thereafter FOR EACH SCHOOL YEAR, BY A DATE ESTABLISHED BY THE ←
24 BOARD, a nonpublic school that desires to enroll opportunity
25 scholarship recipients under this subarticle shall certify to
26 the board that it satisfies the definition of "participating
27 nonpublic school" in section 2502-B. Such certification shall
28 be on a form developed by the board.

29 (d) Policies.--Upon request, a participating nonpublic
30 school shall make available for review by the parents of any

1 opportunity scholarship recipient seeking enrollment, its
2 written school policies and procedures related to tuition
3 charges, admissions, academic offerings and requirements,
4 discipline, religious instruction, parent involvement, ←
5 STANDARDIZED TESTING, THE RELEASE OF RESULTS OF STANDARDIZED
6 TESTS ADMINISTERED BY THE PARTICIPATING NONPUBLIC SCHOOL and
7 extracurricular activities. ← AND SUSPENSION AND EXPULSION OF
8 STUDENTS, INCLUDING EDUCATIONAL ACCOMMODATIONS AND COUNSELING
9 OFFERED TO STUDENTS AND PARENTS.

10 (E) ASSESSMENTS.--

11 (1) (I) EACH PARTICIPATING NONPUBLIC SCHOOL SHALL
12 ADMINISTER ANNUALLY AN ASSESSMENT OR A NATIONALLY NORMED
13 STANDARDIZED ACHIEVEMENT TEST IN READING/LANGUAGE ARTS
14 AND MATHEMATICS TO EACH OPPORTUNITY SCHOLARSHIP RECIPIENT
15 ATTENDING THE PARTICIPATING NONPUBLIC SCHOOL IN GRADES 3,
16 5, 8 AND 11.

17 (II) TO COMPLY WITH THIS PARAGRAPH, A PARTICIPATING
18 NONPUBLIC SCHOOL MAY EITHER ADMINISTER AN ASSESSMENT OR
19 ADMINISTER A NATIONALLY NORMED STANDARDIZED ACHIEVEMENT
20 TEST CHOSEN BY THE PARTICIPATING NONPUBLIC SCHOOL FROM A
21 LIST ESTABLISHED UNDER PARAGRAPH (2).

22 (2) THE BOARD SHALL ESTABLISH A LIST OF AT LEAST EIGHT
23 NATIONALLY NORMED STANDARDIZED ACHIEVEMENT TESTS FROM WHICH
24 THE PARTICIPATING NONPUBLIC SCHOOL SHALL SELECT A TEST TO BE
25 ADMINISTERED IF THE PARTICIPATING NONPUBLIC SCHOOL DOES NOT
26 CHOOSE TO ADMINISTER AN ASSESSMENT.

27 (3) EACH PARTICIPATING NONPUBLIC SCHOOL SHALL:

28 (I) RELEASE EACH OPPORTUNITY SCHOLARSHIP RECIPIENT'S
29 INDIVIDUAL RESULTS ON THE ASSESSMENT OR NATIONALLY NORMED
30 STANDARDIZED ACHIEVEMENT TEST ADMINISTERED TO OPPORTUNITY

1 SCHOLARSHIP RECIPIENTS UNDER PARAGRAPH (1) TO THE PARENT
2 OF THE OPPORTUNITY SCHOLARSHIP RECIPIENT.

3 (II) IF THE PARTICIPATING NONPUBLIC SCHOOL HAS A
4 PUBLICLY ACCESSIBLE INTERNET WEBSITE, POST ON THE WEBSITE
5 THE PARTICIPATING NONPUBLIC SCHOOL'S AGGREGATE RESULTS ON
6 THE ASSESSMENT OR NATIONALLY NORMED STANDARDIZED
7 ACHIEVEMENT TEST ADMINISTERED TO OPPORTUNITY SCHOLARSHIP
8 RECIPIENTS UNDER PARAGRAPH (1), PROVIDED THAT THE
9 PARTICIPATING NONPUBLIC SCHOOL SHALL NOT POST RESULTS
10 THAT REVEAL THE IDENTITY OF ANY INDIVIDUAL STUDENT.

11 (4) THE PARTICIPATING NONPUBLIC SCHOOL SHALL BEAR THE
12 COST OF THE TESTING ADMINISTERED UNDER THIS SUBSECTION AND
13 SHALL NOT IMPOSE AN ASSESSMENT OR TESTING FEE ON AN
14 OPPORTUNITY SCHOLARSHIP RECIPIENT.

15 ~~(e)~~ (F) Construction.--Nothing in this subarticle shall be ←
16 construed to:

17 (1) Prohibit a participating nonpublic school from
18 limiting admission to a particular grade level, a single
19 gender or to areas of concentration of the participating
20 nonpublic school, including, but not limited to, mathematics,
21 science and the arts.

22 (2) Empower the Commonwealth or any of its agencies or
23 officers or political subdivisions to impose any additional
24 requirements on any participating nonpublic school which are
25 not otherwise authorized under the laws of this Commonwealth
26 or to require any participating nonpublic school to enroll
27 any opportunity scholarship recipient if the participating
28 nonpublic school does not offer appropriate programs or is
29 not structured or equipped with the necessary facilities to
30 meet the special needs of the opportunity scholarship

1 recipient or does not offer a particular program requested.

2 Section 2506-B. Amount of opportunity scholarship.

3 (a) Calculation.--

4 (1) The amount of the opportunity scholarship shall
5 equal 100% of the Commonwealth's share of the resident school
6 district's total revenue per average daily membership of the
7 prior school year.

8 (2) In no case shall the combined amount of the
9 opportunity scholarship award and any additional financial
10 assistance provided by ~~the~~ 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 had not received an
18 opportunity scholarship.

19 (c) Excess Scholarship Fund.--

20 (1) The Excess Scholarship Fund is established in the
21 State Treasury and shall be funded by the amount of the
22 opportunity scholarship awarded to an opportunity scholarship
23 recipient under this subarticle in excess of the amount of
24 tuition charged to the opportunity scholarship recipient.

25 (2) The fund shall be administered by the board and
26 ~~applied toward costs of the opportunity scholarship program~~ ←
27 ~~beginning in the 2012-2013 school year and each school year~~
28 ~~THEREAFTER.~~ APPLIED AS FOLLOWS: ←

29 (I) DURING THE 2012-2013 SCHOOL YEAR AND EACH SCHOOL
30 YEAR THEREAFTER, MONEY IN THE FUND SHALL BE APPLIED

1 TOWARD THE COSTS OF THE OPPORTUNITY SCHOLARSHIP PROGRAM,
2 SUBJECT TO SUBPARAGRAPH (II).

3 (II) DURING THE 2014-2015 SCHOOL YEAR AND EACH
4 SCHOOL YEAR THEREAFTER, ONE-HALF OF THE MONEY IN THE FUND
5 SHALL BE APPLIED TOWARD COSTS OF THE FOLLOWING PROGRAMS:

6 (A) ONE-HALF OF THE MONEY UNDER THIS
7 SUBPARAGRAPH SHALL BE APPLIED TO THE PUBLIC SCHOOL
8 DEMONSTRATION GRANT PROGRAM. ANY UNUSED GRANT FUNDING
9 SHALL BE ADDED TO THE TOTAL AMOUNT OF FUNDS AVAILABLE
10 FOR THE MIDDLE-INCOME SCHOLARSHIP PROGRAM.

11 (B) ONE-HALF OF THE MONEY UNDER THIS
12 SUBPARAGRAPH SHALL BE APPLIED TOWARD THE COSTS OF THE
13 MIDDLE-INCOME SCHOLARSHIP PROGRAM.

14 (d) Annual appropriations.--

15 (1) Opportunity scholarships authorized under this
16 subarticle shall be made from annual appropriations made by
17 the General Assembly to the department and moneys available
18 in the fund for that purpose.

19 (2) ~~In~~ SUBJECT TO SECTION 2503-B(B)(3), IN the event ←
20 that insufficient moneys are available in any fiscal year to
21 provide opportunity scholarships to all eligible opportunity
22 scholarship recipients in the amount authorized, the board
23 shall make pro rata reductions in the amount of the
24 opportunity scholarship provided to each opportunity
25 scholarship recipient.

26 (3) The total amount of opportunity scholarships
27 provided in any fiscal year shall be limited to the amount of
28 money appropriated for that fiscal year and moneys in the
29 fund.

30 (e) Nontaxable.--Opportunity scholarship funds received by a

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

8 (f) Continued eligibility.--

9 (1) Subject to subsection (d), a child enrolled in a
10 nonresident public school or a participating nonpublic school
11 who received an opportunity scholarship under this subarticle
12 in the prior school year shall receive an opportunity
13 scholarship in each school year of enrollment under the
14 opportunity scholarship program, provided that the child
15 remains eligible.

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

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

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

1 (1) Imposition by the board of a civil penalty of up to
2 \$1,000.

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

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

7 (H) RESIDENCE IN MORE THAN ONE SCHOOL DISTRICT WITHIN A ←
8 SCHOOL YEAR.--WHERE AN OPPORTUNITY SCHOLARSHIP RECIPIENT RESIDES
9 WITHIN MORE THAN ONE SCHOOL DISTRICT DURING A SCHOOL YEAR, THE
10 AMOUNT OF THE OPPORTUNITY SCHOLARSHIP SHALL BE CHARGED AGAINST
11 EACH RESIDENT SCHOOL DISTRICT ON A PRO RATA BASIS.

12 Section 2507-B. Guidelines.

13 (a) Requirements.--Within 30 days of the effective date of
14 this section, the board shall establish guidelines that provide
15 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 SCHOLARSHIP AWARDS, INCLUDING POLICIES AND PROCEDURES TO
29 MINIMIZE THE LIKELIHOOD OF FRAUD OR MISUSE OF OPPORTUNITY
30 SCHOLARSHIP FUNDS. For an opportunity scholarship recipient

1 enrolled in a participating nonpublic school, THE PROCEDURES ←
2 SHALL INCLUDE restrictive endorsement of opportunity
3 scholarship award checks to the participating nonpublic
4 school in which the opportunity scholarship recipient is
5 enrolled.

6 (7) Procedures for participating nonpublic schools to
7 pay pro rata refunds of opportunity scholarships to the
8 parents of opportunity scholarship recipients who withdraw ←
9 BOARD WHEN AN OPPORTUNITY SCHOLARSHIP RECIPIENT WITHDRAWS ←
10 from a participating nonpublic school during the school year
11 for which the opportunity scholarship was paid.

12 (8) Development and distribution of public information
13 concerning the opportunity and local scholarship and
14 interdistrict enrollment programs.

15 (9) PROCEDURES TO DETERMINE THE ELIGIBILITY OF HOMELESS ←
16 STUDENTS FOR OPPORTUNITY SCHOLARSHIPS UNDER THIS SUBARTICLE,
17 CONSISTENT WITH THE STEWART B. MCKINNEY HOMELESS ASSISTANCE
18 ACT (PUBLIC LAW 100-77, 101 STAT. 482) OR A SUCCESSOR FEDERAL
19 STATUTE.

20 (10) DEADLINE DATES FOR ACTIONS REQUIRED TO BE TAKEN BY
21 THE BOARD, THE DEPARTMENT, SCHOOL DISTRICTS, PARTICIPATING
22 NONPUBLIC SCHOOLS AND PARENTS UNDER THIS SUBARTICLE.

23 ~~(9)~~ (11) Such other procedures as are necessary to fully ←
24 implement the opportunity and local scholarship and
25 interdistrict enrollment programs.

26 (12) A LIST OF AT LEAST EIGHT NATIONALLY NORMED ←
27 STANDARDIZED ACHIEVEMENT TESTS FROM WHICH A PARTICIPATING
28 NONPUBLIC SCHOOL MAY SELECT A TEST TO BE ADMINISTERED
29 PURSUANT TO SECTION 2505-B(E). THE INITIAL LIST DEVELOPED BY
30 THE BOARD SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING:

1 CALIFORNIA ACHIEVEMENT TEST, COMPREHENSIVE TESTING PROGRAM
2 (CTPIV), IOWA TEST OF BASIC SKILLS, METROPOLITAN ACHIEVEMENT
3 TEST, PEABODY ACHIEVEMENT INDIVIDUAL TEST - REVISED VERSION,
4 STANFORD ACHIEVEMENT TEST, TERRA NOVA AND WOODCOCK JOHNSON
5 REVISED TESTS OF ACHIEVEMENT III.

6 (b) Publication.--The guidelines shall be published as a
7 statement of policy in the Pennsylvania Bulletin. The board
8 shall mail a copy of the guidelines to each school district and ←
9 nonpublic school in this Commonwealth and shall post the
10 guidelines on the department's publicly accessible Internet
11 website.

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

16 (d) Exemption of guidelines from certain laws.--The initial
17 guidelines established by the board, and any amendments thereto,
18 shall be exempt from the requirements of the following:

19 (1) The act of June 25, 1982 (P.L.633, No.181), known as
20 the Regulatory Review Act.

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

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

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

26 Notwithstanding any other provision of law to the contrary,
27 beginning in the second consecutive school year of enrollment in
28 a nonresident public school or a participating nonpublic school
29 by an opportunity scholarship recipient who was enrolled in the
30 recipient's resident school district or in a charter school or

1 cyber charter school when the recipient first received an
2 opportunity scholarship under this subarticle, the amount of
3 Commonwealth basic education funding paid by the department to
4 the resident school district shall be reduced by an amount equal
5 to the Commonwealth's share of the school district's total
6 revenue per average daily membership.

7 Section 2509-B. Education Opportunity Board.

8 (a) Establishment.--An independent board to be known as the
9 Education Opportunity Board is established within the
10 department. The board shall consist of three members appointed
11 by the Governor with the advice and consent of a majority of the
12 members elected to the Senate. The Governor may appoint no more
13 than two members to the board who are members of the same
14 political party as the Governor.

15 (b) Terms of members.--Members of the board shall serve a
16 term of four years. Vacancies shall be filled for an unexpired
17 term in the same manner as original appointments. Members shall
18 continue to serve after the expiration of their term until the
19 Governor appoints a replacement who is confirmed by a majority
20 of the members elected to the Senate. All members of the board
21 must be residents of this Commonwealth.

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

24 (d) Meetings.--Meetings shall be held at the call of the
25 chairperson or upon request in writing of a majority of the
26 board. A majority shall constitute a quorum and a majority of
27 such quorum shall have the authority to act upon any matter
28 properly before the board unless otherwise specified in this
29 subarticle.

30 (e) Compensation prohibited.--Members of the board shall

1 receive no compensation for their services but shall be
2 reimbursed for their actual and necessary expenses incurred in
3 the performance of their official board duties.

4 (f) Executive director and staff.--

5 (1) There shall be an executive director of the board
6 who shall serve as the executive officer and secretary of the
7 board. The board shall employ and fix the reasonable
8 compensation of the executive director.

9 (2) The executive director, with approval of the board,
10 may employ additional professional and clerical personnel as
11 may be necessary to carry out the duties and responsibilities
12 of the board.

13 (3) The department shall provide adequate funding, space
14 and equipment to facilitate the activities of the board.

15 (g) Legal advice and assistance.--The Governor, through his
16 General Counsel, shall provide such legal advice and assistance
17 as the board may require.

18 (h) Powers and duties.--The board shall have the following
19 powers and duties:

20 (1) Establish guidelines for the administration of the
21 opportunity and local scholarship programs as required under
22 section 2507-B.

23 (2) Administer the opportunity and local scholarship
24 application and approval processes.

25 (3) Develop the opportunity and local scholarship
26 application form and any other forms necessary to administer
27 the opportunity and local scholarship programs, including the
28 notice required to be provided by school districts under
29 section 2503-B(d).

30 (4) Review and verify the income and residence of

1 opportunity and local scholarship applicants.

2 (5) Announce the award of opportunity and local
3 scholarships for the following school year under sections
4 2504-B(c) and 2505-B(a).

5 (6) Confirm the enrollment of opportunity scholarship
6 recipients in nonresident public schools and participating
7 nonpublic schools and allocate opportunity scholarship funds
8 to opportunity scholarship recipients.

9 (7) MAKE PAYMENT OF OPPORTUNITY SCHOLARSHIP AWARDS AS ←
10 PROVIDED IN SECTIONS 2504-B AND 2505-B.

11 (8) NOTIFY SCHOOL DISTRICTS THAT ELECT TO CREATE A LOCAL
12 SCHOLARSHIP WHEN PAYMENT MUST BE MADE UNDER SECTION 2504-
13 B(B).

14 ~~(7)~~ (9) Beginning after the first school year of ←
15 implementation of the opportunity scholarship program,
16 prepare a report to be submitted to the Governor and the
17 General Assembly by December 1 of each year, made available
18 to the parents of opportunity scholarship recipients and
19 placed on the department's publicly accessible Internet
20 website that includes at least the following information for
21 the prior school year:

22 (i) The total number of opportunity scholarships
23 requested.

24 (ii) The total number and total dollar amount of
25 opportunity scholarships awarded, in total and
26 disaggregated by:

27 (A) Whether the opportunity scholarship
28 recipient attends a nonresident public school or a
29 participating nonpublic school.

30 (B) Grade level of the opportunity scholarship

1 recipient.

2 (C) Whether the opportunity scholarship
3 recipient resides in a school district with at least
4 one persistently lowest achieving school.

5 (iii) The administrative costs of the opportunity
6 scholarship program.

7 (iv) A listing of nonresident public schools to
8 which opportunity scholarship funds were disbursed on
9 behalf of opportunity scholarship recipients and the
10 amount disbursed to each nonresident public school.

11 (v) A listing of participating nonpublic schools in
12 which opportunity scholarship recipients enrolled and the
13 number of opportunity scholarship recipients who enrolled
14 in each participating nonpublic school.

15 (vi) The total number and total dollar amount of
16 local scholarships awarded, disaggregated by the resident
17 school districts that made the local scholarship awards.

18 (10) FOR THE 2014-2015 SCHOOL YEAR AND EACH SCHOOL YEAR ←
19 THEREAFTER, ADMINISTER AND ANNOUNCE THE AWARD OF PUBLIC
20 SCHOOL CHOICE DEMONSTRATION GRANTS TO ELIGIBLE SCHOOL
21 DISTRICTS AS PROVIDED UNDER SECTION 2513-B, AND ANNUALLY
22 REDISTRIBUTE ANY REMAINING FUNDS FROM THE PUBLIC SCHOOL
23 CHOICE DEMONSTRATION GRANTS PROGRAM TO THE MIDDLE-INCOME
24 SCHOLARSHIP PROGRAM.

25 (11) FOR THE 2014-2015 SCHOOL YEAR AND EACH SCHOOL YEAR
26 THEREAFTER, ADMINISTER THE MIDDLE-INCOME SCHOLARSHIP PROGRAM.

27 Section 2510-B. Study.

28 Following the 2014-2015 school year, the board shall conduct
29 a study of the effectiveness of the opportunity scholarship
30 program and shall deliver a written report of its findings,

1 including any recommendations for changes to the program, to the
2 Governor, the chairman and minority chairman of the Education
3 Committee of the Senate and the chairman and minority chairman
4 of the Education Committee of the House of Representatives by
5 December 31, 2015.

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

7 The Pennsylvania Supreme Court shall have exclusive
8 jurisdiction to hear any challenge or to render a declaratory
9 judgment concerning the constitutionality of this subarticle.

10 The Supreme Court may take such action as it deems appropriate,
11 consistent with the Supreme Court's retaining jurisdiction over
12 such a matter, to find facts or to expedite a final judgment in
13 connection with such a challenge or request for declaratory
14 relief.

15 Section 2512-B. Optional local tuition grant program.

16 A school district may, out of funds received from the
17 Commonwealth for educational purposes, establish a program of
18 tuition grants to provide for the education of resident students
19 who wish to attend a nonresident public school or a
20 participating nonpublic school on a tuition basis. A student who
21 receives a tuition grant under this section shall be included in
22 the average daily membership of the student's resident school
23 district for the purpose of providing basic education funding
24 and special education funding under Article XXV.

25 SECTION 2513-B. PUBLIC SCHOOL CHOICE DEMONSTRATION GRANT

26 PROGRAM.

27 (A) ESTABLISHMENT.--A SCHOOL DISTRICT MAY, OUT OF FUNDS
28 RECEIVED BY THE BOARD UNDER SECTION 2506-B(C) (2) (II) (A) AND
29 AVAILABLE STATE AND LOCAL FUNDS, ESTABLISH A PROGRAM OF TUITION
30 GRANTS TO PROVIDE FOR THE EDUCATION OF RESIDENT STUDENTS WHO



1 WISH TO ATTEND A NONRESIDENT PUBLIC SCHOOL.

2 (B) LIMIT.--NO GRANT AWARD ISSUED BY THE BOARD TO A SCHOOL
3 DISTRICT UNDER THIS SECTION SHALL EXCEED \$500,000.

4 (C) PROCEDURE.--GRANT APPLICATIONS SHALL ONLY BE RECEIVED,
5 REVIEWED AND ALLOCATED BY THE BOARD DURING AN ANNUAL TWO-WEEK
6 GRANT REVIEW PROCESS TO BEGIN ON JULY 1 AND END ON JULY 15 OF
7 EACH CALENDAR YEAR.

8 (D) ELIGIBILITY.--TO BE ELIGIBLE FOR GRANTS UNDER THIS
9 PROGRAM, THE SCHOOL DISTRICT SHALL:

10 (1) SUBMIT AN APPLICATION TO THE BOARD AT A DATE TO BE
11 DETERMINED BY THE BOARD REQUESTING A PUBLIC SCHOOL CHOICE
12 DEMONSTRATION GRANT.

13 (2) SUBMIT A STATEMENT OF THE AMOUNT OF THE GRANT
14 SOUGHT, INCLUDING THE ESTIMATED NUMBER OF TUITION GRANTS TO
15 BE DISTRIBUTED.

16 (3) DEMONSTRATE A COMMITMENT OF FUNDS RECEIVED FROM BOTH
17 LOCAL SOURCES AND THE COMMONWEALTH FOR EDUCATIONAL PURPOSES
18 OF AT LEAST \$3 FOR EVERY \$1 OF GRANT FUNDS ISSUED UNDER
19 SECTION 2506-B(C) (2) (II) (A).

20 (4) MEET ANY OTHER REQUIREMENTS AS SET BY THE BOARD.

21 (E) AVERAGE DAILY MEMBERSHIP.--A STUDENT WHO RECEIVES A
22 TUITION GRANT UNDER THIS SECTION SHALL BE INCLUDED IN THE
23 AVERAGE DAILY MEMBERSHIP OF THE STUDENT'S RESIDENT SCHOOL
24 DISTRICT FOR THE PURPOSE OF PROVIDING BASIC EDUCATION FUNDING
25 AND SPECIAL EDUCATION FUNDING UNDER ARTICLE XXV.

26 SECTION 2514-B. MIDDLE-INCOME SCHOLARSHIP PROGRAM.

27 (A) ESTABLISHMENT.--BEGINNING WITH THE 2014-2015 SCHOOL
28 YEAR, THE BOARD SHALL ESTABLISH A MIDDLE-INCOME SCHOLARSHIP
29 PROGRAM TO PROVIDE SCHOLARSHIPS TO HELP MIDDLE-INCOME CHILDREN
30 IN THIS COMMONWEALTH PAY TUITION TO ATTEND A NONRESIDENT PUBLIC

1 SCHOOL OR PARTICIPATING NONPUBLIC SCHOOL. THE BOARD SHALL MAKE
2 ANNUAL MIDDLE-INCOME SCHOLARSHIP AWARDS ON A PRO RATA BASIS FROM
3 THE FUNDING PROVIDED UNDER SECTION 2506-B(C) (2) (II) (B).

4 (B) NOTICE.--

5 (1) BY A DATE DETERMINED BY THE BOARD, EACH SCHOOL
6 DISTRICT IN THIS COMMONWEALTH SHALL PROVIDE ALL RESIDENTS OF
7 THE SCHOOL DISTRICT WITH NOTICE OF THE FOLLOWING:

8 (I) A DESCRIPTION OF THE MIDDLE-INCOME SCHOLARSHIP
9 PROGRAM.

10 (II) INSTRUCTIONS FOR APPLYING FOR A MIDDLE-INCOME
11 SCHOLARSHIP.

12 (III) NOTICE THAT A PARENT MUST CONTACT DIRECTLY THE
13 NONRESIDENT PUBLIC SCHOOL OR PARTICIPATING NONPUBLIC
14 SCHOOL IN WHICH THE PARENT'S CHILD SEEKS TO ENROLL FOR
15 APPLICATION INSTRUCTIONS.

16 (2) THE SCHOOL DISTRICT SHALL PROVIDE THE NOTICE TO ALL
17 RESIDENTS OF THE SCHOOL DISTRICT BY NOTICE POSTED ON THE
18 SCHOOL DISTRICT'S PUBLICLY ACCESSIBLE INTERNET WEBSITE. THE
19 NOTICE SHALL BE IN A FORM PROVIDED BY THE BOARD.

20 (C) REGULATIONS.--IN PROMULGATING REGULATIONS FOR THE
21 ADMINISTRATION OF THE MIDDLE-INCOME SCHOLARSHIP, THE BOARD SHALL
22 DEVELOP APPLICATION AND ENROLLMENT PROCESSES AND PROCEDURES
23 SUBSTANTIVELY SIMILAR TO SECTIONS 2504-B AND 2505-B. REGULATIONS
24 SHALL BE SUBJECT TO REVIEW IN ACCORDANCE WITH THE ACT OF JUNE
25 25, 1982 (P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW ACT.

26 (D) LIMITATION.--

27 (1) NO NONRESIDENT PUBLIC SCHOOL OR PARTICIPATING
28 NONPUBLIC SCHOOL MAY CHARGE A MIDDLE-INCOME SCHOLARSHIP
29 RECIPIENT A HIGHER TUITION RATE THAN THE RATE THE NONRESIDENT
30 PUBLIC SCHOOL OR PARTICIPATING NONPUBLIC SCHOOL WOULD HAVE

1 CHARGED TO A STUDENT WHO HAD NOT RECEIVED A MIDDLE-INCOME
2 SCHOLARSHIP.

3 (2) THE COMBINED AMOUNT OF THE MIDDLE-INCOME SCHOLARSHIP
4 AWARD AND ANY ADDITIONAL FINANCIAL ASSISTANCE PROVIDED BY THE
5 PARTICIPATING NONPUBLIC SCHOOL SHALL NOT EXCEED THE TUITION
6 RATE FOR THE PARTICIPATING NONPUBLIC SCHOOL.

7 (E) APPLICABILITY.--THE PROVISIONS OF SECTIONS 2505-B(C),
8 (D), (E) AND (F) AND 2506-B(E), (G) AND (H) SHALL APPLY TO THE
9 MIDDLE-INCOME SCHOLARSHIP PROGRAM ESTABLISHED UNDER THIS
10 SECTION.

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 XVI OF ←
18 THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE
19 INSURANCE COMPANY LAW OF 1921, OR Article III, IV, VI, VII,
20 VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known
21 as the Tax Reform Code of 1971. The term includes a pass-through
22 entity. For purposes of this subarticle, a business firm shall
23 be included in one of the following groups:

24 (1) Group 1 includes any business firm that is either ←
25 entering the second year of a two-year commitment or applying ←
26 for tax credits for a contribution to an educational
27 improvement organization that is also a school district
28 foundation, public school foundation, charter school
29 foundation or cyber charter school foundation.

30 (2) Group 2 includes any business firm that is renewing

1 a two-year commitment that was fulfilled in the most recent
2 fiscal year or is applying for tax credits for a contribution
3 to a prekindergarten scholarship organization in the same
4 amount that it had contributed in the most recent fiscal
5 year.

6 (3) Group 3 includes any business firm other than a
7 business firm in Group 1 or Group 2.

8 "Contribution." A donation of cash, personal property or
9 services, the value of which is the net cost of the donation to
10 the donor or the pro rata hourly wage, including benefits, of
11 the individual performing the services.

12 "Department." The Department of Community and Economic
13 Development of the Commonwealth.

14 "Educational improvement organization." A nonprofit entity
15 which:

16 (1) is exempt from Federal taxation under section 501(c)
17 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
18 26 U.S.C. § 1 et seq.); and

19 (2) contributes at least 80% of its annual receipts as
20 grants to a public school for innovative educational
21 programs.

22 For purposes of this definition, a nonprofit entity
23 "contributes" its annual cash receipts when it expends or
24 otherwise irrevocably encumbers those funds for expenditure
25 during the then current fiscal year of the nonprofit entity or
26 during the next succeeding fiscal year of the nonprofit entity.

27 A "nonprofit entity" includes a school district foundation,
28 public school foundation, charter school foundation or cyber
29 charter school foundation.

30 "Eligible prekindergarten student." A student, including an

1 eligible student with a disability, who is enrolled in a
2 prekindergarten program and is a member of a household with a
3 maximum annual household income as increased by the applicable
4 income allowance.

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

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

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

16 (2) Needs special education and related services.

17 (3) Is enrolled in a prekindergarten program or in a
18 school.

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

21 "Household." An individual living alone or with the
22 following: a spouse, parent and their unemancipated minor
23 children, other unemancipated minor children who are related by
24 blood or marriage or other adults or unemancipated minor
25 children living in the household who are dependent upon the
26 individual.

27 "Household income." All moneys or property received of
28 whatever nature and from whatever source derived. The term does
29 not include the following:

30 (1) Periodic payments for sickness and disability other

1 than regular wages received during a period of sickness or
2 disability.

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

6 (3) Payments commonly recognized as old-age or
7 retirement benefits paid to persons retired from service
8 after reaching a specific age or after a stated period of
9 employment.

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

12 (5) Payments to reimburse actual expenses.

13 (6) Payments made by employers or labor unions for
14 programs covering hospitalization, sickness, disability or
15 death, supplemental unemployment benefits, strike benefits,
16 Social Security and retirement.

17 (7) Compensation received by United States servicemen
18 serving in a combat zone.

19 "Income allowance."

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

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

24 (ii) After June 30, 2011, \$12,000 for each eligible
25 student, eligible prekindergarten student and dependent
26 member of a household.

27 (2) Beginning July 1, 2012, the Department of Community
28 and Economic Development shall annually adjust the income
29 allowance amounts under paragraph (1) to reflect any upward
30 changes in the Consumer Price Index for All Urban Consumers

1 for the Pennsylvania, New Jersey, Delaware and Maryland area
2 in the preceding 12 months and shall immediately submit the
3 adjusted amounts to the Legislative Reference Bureau for
4 publication as a notice in the Pennsylvania Bulletin.

5 "Innovative educational program." An advanced academic or
6 similar program that is not part of the regular academic program
7 of a public school but that enhances the curriculum or academic
8 program of the public school or provides prekindergarten
9 programs to public school students.

10 "Maximum annual household income."

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

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

14 (ii) After June 30, 2011, not more than \$60,000.

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

17 (i) the sum of:

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

19 and

20 (B) the applicable income allowance; by

21 (ii) the applicable support level factor according
22 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>

26 (3) Beginning July 1, 2012, the Department of Community
27 and Economic Development shall annually adjust the income
28 amounts under paragraphs (1) and (2) to reflect any upward
29 changes in the Consumer Price Index for All Urban Consumers
30 for the Pennsylvania, New Jersey, Delaware and Maryland area

1 in the preceding 12 months and shall immediately submit the
2 adjusted amounts to the Legislative Reference Bureau for
3 publication as a notice in the Pennsylvania Bulletin.

4 "Pass-through entity." A partnership as defined in section
5 301(n.0) of the act of March 4, 1971 (P.L.6, No.2), known as the
6 Tax Reform Code of 1971, a single-member limited liability
7 company treated as a disregarded entity for Federal income tax
8 purposes or a Pennsylvania S corporation as defined in section
9 301(n.1) of the Tax Reform Code of 1971.

10 "Prekindergarten program." A program of instruction for
11 three-year-old or four-year-old students that utilizes a
12 curriculum aligned with the curriculum of the school with which
13 it is affiliated and that provides:

14 (1) a minimum of two hours of instructional and
15 developmental activities per day at least 60 days per school
16 year; or

17 (2) a minimum of two hours of instructional and
18 developmental activities per day at least 20 days over the
19 summer recess.

20 "Prekindergarten scholarship organization." A nonprofit
21 entity that:

22 (1) Either is exempt from Federal taxation under section
23 501(c) (3) of the Internal Revenue Code of 1986 (Public Law
24 99-514, 26 U.S.C. § 1 et seq.) or is operated as a separate
25 segregated fund by a scholarship organization that has been
26 qualified under section 2522-B.

27 (2) Contributes at least 80% of its annual cash receipts
28 to a prekindergarten scholarship program by expending or
29 otherwise irrevocably encumbering those funds for
30 distribution during the then current fiscal year of the

1 organization or during the next succeeding fiscal year of the
2 organization.

3 "Prekindergarten scholarship program." A program to provide
4 tuition to eligible prekindergarten students to attend a
5 prekindergarten program operated by or in conjunction with a
6 school located in this Commonwealth and that includes an
7 application and review process for the purpose of making awards
8 to eligible prekindergarten students and awards scholarships to
9 eligible prekindergarten students without limiting availability
10 to only students of one school.

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

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

18 "Scholarship organization." A nonprofit entity that:

19 (1) is exempt from Federal taxation under section 501(c)
20 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
21 26 U.S.C. § 1 et seq.); and

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

24 For purposes of this definition, a nonprofit entity
25 "contributes" its annual cash receipts to a scholarship program
26 when it expends or otherwise irrevocably encumbers those funds
27 for distribution during the then current fiscal year of the
28 nonprofit entity or during the next succeeding fiscal year of
29 the nonprofit entity.

30 "Scholarship program." A program to provide tuition to

1 eligible students to attend a school located in this
2 Commonwealth. A scholarship program must include an application
3 and review process for the purpose of making awards to eligible
4 students. The award of scholarships to eligible students shall
5 be made without limiting availability to only students of one
6 school.

7 "School." A kindergarten, elementary school or secondary
8 school at which the compulsory attendance requirements of the
9 Commonwealth may be met and that meets the applicable
10 requirements of Title VI of the Civil Rights Act of 1964 (Public
11 Law 88-352, 78 Stat. 241), or a public or nonpublic
12 prekindergarten.

13 "School age." From the earliest admission age to a school's
14 prekindergarten or kindergarten program or, when no
15 prekindergarten or kindergarten program is provided, the
16 school's earliest admission age for beginners, until the end of
17 the school year the student attains 21 years of age or
18 graduation from high school, whichever occurs first.

19 "Special education school." A school or program within a
20 school that is designated specifically and exclusively for
21 students with any of the disabilities listed in 34 CFR § 300.8
22 (relating to child with a disability) and meets one of the
23 following:

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

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

28 (3) is a school for the blind or deaf receiving
29 Commonwealth appropriations; or

30 (4) is operated by or under the authority of a bona fide

1 religious institution or by the Commonwealth or any political
2 subdivision thereof.

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

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

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

9 "Tax credit." The educational improvement tax credit
10 established under this subarticle.

11 Section 2522-B. Qualification and application.

12 (a) Establishment.--In accordance with section 14 of Article
13 III of the Constitution of Pennsylvania, an educational
14 improvement tax credit program is established to enhance the
15 educational opportunities available to all students in this
16 Commonwealth.

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

24 (c) Scholarship organizations and prekindergarten
25 scholarship organizations.--A scholarship organization or
26 prekindergarten scholarship organization must certify to the
27 department that the organization is eligible to participate in
28 the program established under this subarticle and must agree to
29 annually report the following information to the department by
30 September 1 of each year:

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

4 (ii) The total and average amounts of scholarships
5 awarded during the immediately preceding school year to
6 eligible prekindergarten students.

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

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

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

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

19 (vii) Where the scholarship organization or
20 prekindergarten scholarship organization collects
21 information on a county-by-county basis, the total number
22 and the total dollar amount of scholarships awarded
23 during the immediately preceding school year to residents
24 of each county in which the scholarship organization or
25 prekindergarten scholarship organization awarded
26 scholarships.

27 (2) The information required under paragraph (1) shall
28 be submitted on a form provided by the department. No later
29 than May 1 of each year, the department shall annually
30 distribute such sample forms, together with the forms on

1 which the reports are required to be made, to each listed
2 scholarship organization and prekindergarten scholarship
3 organization.

4 (3) The department may not require any other information
5 to be provided by scholarship organizations or
6 prekindergarten scholarship organizations, except as
7 expressly authorized in this subarticle.

8 (d) Educational improvement organization.--

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

20 (i) The name of the innovative educational program
21 or programs and the total amount of the grant or grants
22 made to those programs during the immediately preceding
23 school year.

24 (ii) A description of how each grant was utilized
25 during the immediately preceding school year and a
26 description of any demonstrated or expected innovative
27 educational improvements.

28 (iii) The names of the public schools and school
29 districts where innovative educational programs that
30 received grants during the immediately preceding school

1 year were implemented.

2 (iv) Where the educational improvement organization
3 collects information on a county-by-county basis, the
4 total number and the total dollar amount of grants made
5 during the immediately preceding school year for programs
6 at public schools in each county in which the educational
7 improvement organization made grants.

8 (2) The information required under paragraph (1) shall
9 be submitted on a form provided by the department. No later
10 than May 1 of each year, the department shall annually
11 distribute such sample forms, together with the forms on
12 which the reports are required to be made, to each listed
13 educational improvement organization.

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

17 (e) Notification.--The department shall notify the
18 scholarship organization, prekindergarten scholarship
19 organization or educational improvement organization that the
20 organization meets the requirements of this subarticle for that
21 fiscal year no later than 60 days after the organization has
22 submitted the information required under this section.

23 (f) Publication.--The department shall annually publish a
24 list of each scholarship organization, prekindergarten
25 scholarship organization or educational improvement organization
26 qualified under this section in the Pennsylvania Bulletin. The
27 list shall also be posted and updated as necessary on the
28 publicly accessible Internet website of the department.

29 Section 2523-B. Application.

30 (a) Scholarship organization or prekindergarten scholarship

1 organization.--A IN ORDER TO RECEIVE A TAX CREDIT, A business ←
2 firm shall apply to the department for a tax credit. A business ←
3 firm shall receive a tax credit if the scholarship organization
4 or prekindergarten scholarship organization that receives the
5 contribution appears on the list established under section 2522-
6 B(f).

7 (b) Educational improvement organization.--A IN ORDER TO ←
8 RECEIVE A TAX CREDIT, A business firm must SHALL apply to the ←
9 department for a tax credit. A business firm shall receive a tax ←
10 credit if the department has approved the program provided by
11 the educational improvement organization that receives the
12 contribution.

13 (c) Contributions.--A contribution by a business firm to a
14 scholarship organization, prekindergarten scholarship
15 organization or educational improvement organization shall be
16 made no later than 60 days following the approval of an
17 application under subsection (a) or (b).

18 Section 2524-B. Tax credit.

19 (a) Scholarship or educational improvement organizations.--
20 In accordance with section 2525-B(a), the Department of Revenue
21 shall grant a tax credit against any tax due under EITHER ←
22 ARTICLE XVI OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN
23 AS THE INSURANCE COMPANY LAW OF 1921, OR Article III, IV, VI,
24 VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2),
25 known as the Tax Reform Code of 1971, to a business firm
26 providing proof of a contribution to a scholarship organization
27 or educational improvement organization in the taxable year in
28 which the contribution is made which shall not exceed 75% of the
29 total amount contributed during the taxable year by the business
30 firm. The tax credit shall not exceed \$300,000 annually per

1 business firm for contributions made to scholarship
2 organizations or educational improvement organizations.

3 (b) Additional amount.--The Department of Revenue shall
4 grant a tax credit of up to 90% of the total amount contributed
5 during the taxable year if the business firm provides a written
6 commitment to provide the scholarship organization or
7 educational improvement organization with the same amount of
8 contribution for two consecutive tax years. The business firm
9 must provide the written commitment under this subsection to the
10 department at the time of application.

11 (c) Prekindergarten scholarship organizations.--In
12 accordance with section 2525-B(a), the Department of Revenue
13 shall grant a tax credit against any tax due under EITHER ←
14 ARTICLE XVI OF THE INSURANCE COMPANY LAW OF 1921 OR Article III,
15 IV, VI, VII, VIII, IX or XV of the Tax Reform Code of 1971 to a
16 business firm providing proof of a contribution to a
17 prekindergarten scholarship organization in the taxable year in
18 which the contribution is made which shall be equal to 100% of
19 the first \$10,000 contributed during the taxable year by the
20 business firm, and which shall not exceed 90% of the remaining
21 amount contributed during the taxable year by the business firm.
22 The tax credit shall not exceed \$150,000 annually per business
23 firm for contributions made to prekindergarten scholarship
24 organizations.

25 (d) Combination of tax credits.--A business firm may receive
26 tax credits from the Department of Revenue in any tax year for
27 any combination of contributions under subsection (a), (b) or
28 (c). In no case may a business firm receive tax credits in any
29 tax year in excess of \$300,000 for contributions under
30 subsections (a) and (b). In no case shall a business firm

1 receive tax credits in any tax year in excess of \$150,000 for
2 contributions under subsection (c).

3 (e) Pass-through entity.--

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

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

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

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

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

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

29 (1) The department may accept applications beginning on
30 May 15 from business firms for tax credits available during a

1 fiscal year that is to begin on July 1.

2 (2) If, on July 1 of a fiscal year, applications for tax
3 credits available during the fiscal year exceed the total
4 aggregate amount of tax credits available for the fiscal
5 year, the department shall approve applications for tax
6 credits on the following basis, subject to the provisions of
7 section 2523-B:

8 (i) Group 1 firms whose ~~advance~~ applications were ←
9 received by July 1 shall be accorded first priority in
10 the approval of tax credit applications. If tax credits
11 applied for by Group 1 firms exceed the total aggregate
12 amount of tax credits available for the program under
13 section 2525-B, the department shall approve on a pro
14 rata basis the applications of all Group 1 firms that
15 applied by July 1, and the applications of Group 2 and
16 Group 3 firms shall be denied. Approval of a reduced tax
17 credit under this subparagraph shall not disqualify a
18 Group 1 firm from receiving a 90% tax credit under
19 subsection (b) even if the amount of tax credit approved
20 would require the Group 1 firm to make a lower
21 scholarship contribution in the second year of a two-year
22 commitment.

23 (ii) If tax credits remain available after credits
24 have been awarded under subparagraph (i), Group 2 firms
25 whose applications were received by July 1 shall be
26 accorded priority in the approval of applications for the
27 remaining tax credits. If the sum of the tax credits
28 approved under subparagraph (i) and the credits applied
29 for by Group 2 firms exceeds the total aggregate amount
30 of tax credits available for the program under section

1 2525-B, the department shall approve on a pro rata basis
2 the applications for the remaining tax credits submitted
3 by all Group 2 firms that applied by July 1, and the
4 applications of Group 3 firms shall be denied.

5 (iii) If tax credits remain available on July 1
6 after credits have been awarded under subparagraphs (i)
7 and (ii), applications of Group 3 firms shall be
8 approved, on a pro rata basis within that group if
9 necessary. Thereafter, the department shall approve the
10 applications of all business firms on a daily basis. If,
11 on any day after July 1, the cumulative sum of the tax
12 credits approved and the tax credits applied for on that
13 day exceeds the total aggregate amount of tax credits
14 available for the program under section 2525-B, the
15 department shall approve on a pro rata basis the
16 applications received on that day.

17 Section 2525-B. Limitations.

18 (a) Amount.--

19 (1) For the fiscal years 2011-2012, 2012-2013 and
20 2013-2014, the total aggregate amount of all tax credits
21 approved for scholarship organizations and educational
22 improvement organizations shall not exceed \$92,000,000 in a
23 fiscal year. No less than 75% of the total aggregate amount
24 of all tax credits approved shall be used to provide tax
25 credits for contributions from business firms to scholarship
26 organizations. No less than 25% of the total aggregate amount
27 of all tax credits approved shall be used to provide tax
28 credits for contributions from business firms to educational
29 improvement organizations.

30 (I) FROM THE TAX CREDITS FOR CONTRIBUTIONS BY



1 BUSINESS FIRMS TO EDUCATIONAL IMPROVEMENT ORGANIZATIONS,
2 20% OF THE AVAILABLE AMOUNT SHALL INITIALLY BE SET ASIDE
3 FOR CONTRIBUTIONS BY BUSINESS FIRMS TO EDUCATIONAL
4 IMPROVEMENT ORGANIZATIONS THAT ARE ALSO SCHOOL DISTRICT
5 FOUNDATIONS, PUBLIC SCHOOL FOUNDATIONS, CHARTER SCHOOL
6 FOUNDATIONS OR CYBER CHARTER SCHOOL FOUNDATIONS AND SHALL
7 BE DISTRIBUTED IN ACCORDANCE WITH SECTION 2524-B(G).

8 (II) TAX CREDITS REMAINING FROM THE AMOUNT SET ASIDE
9 IN SUBPARAGRAPH (I) AFTER JULY 1 OF EACH YEAR SHALL BE
10 MADE AVAILABLE TO BUSINESS FIRMS FOR CONTRIBUTIONS TO ANY
11 EDUCATIONAL IMPROVEMENT ORGANIZATION AND SHALL BE
12 DISTRIBUTED IN ACCORDANCE WITH SECTION 2524-B(G).

13 (2) (i) Subject to adjustment under subparagraph (ii),
14 in the fiscal year 2014-2015 and each fiscal year
15 thereafter, the total aggregate amount of all tax credits
16 available shall equal the total aggregate amount of all
17 tax credits available in the prior fiscal year.

18 (ii) Beginning in the fiscal year 2014-2015, in any
19 fiscal year in which the total aggregate amount of all
20 tax credits approved for the prior fiscal year is equal
21 to or greater than 90% of the total aggregate amount of
22 all tax credits available for the prior fiscal year, the
23 total aggregate amount of all tax credits available shall
24 increase by 5%. The department shall publish on its
25 Internet website the total aggregate amount of all tax
26 credits available when the amount is increased under this
27 paragraph.

28 (3) For the fiscal years 2011-2012, 2012-2013 and
29 2013-2014, the total aggregate amount of all tax credits
30 approved for contributions from business firms to

1 prekindergarten scholarship programs shall not exceed
2 \$8,000,000 in a fiscal year.

3 (4) (i) Subject to adjustment in subparagraph (ii), in
4 the fiscal year 2014-2015 and each fiscal year
5 thereafter, the total aggregate amount of all tax credits
6 available to prekindergarten scholarship programs shall
7 equal the total aggregate amount of all tax credits
8 available to prekindergarten scholarship programs in the
9 prior fiscal year.

10 (ii) Beginning in the fiscal year 2014-2015, in any
11 fiscal year in which the total aggregate amount of all
12 tax credits available is increased under paragraph (2),
13 the total aggregate amount of all tax credits available
14 for prekindergarten scholarship programs shall increase
15 by 5%. The department shall publish on its Internet
16 website the total aggregate amount of all tax credits
17 available for prekindergarten scholarship programs when
18 the amount is increased under this paragraph.

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

22 (c) Tax liability.--

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

26 (2) In the case of a credit granted to a pass-through
27 entity which elects to transfer the credit according to
28 section 2524-B(e), a tax credit granted for any one taxable
29 year and transferred to a shareholder, member or partner may
30 not exceed the tax liability of the shareholder, member or

1 partner.

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

7 (e) Nontaxable income.--A scholarship received by an
8 eligible student or eligible prekindergarten student shall not
9 be considered to be taxable income for the purposes of Article
10 III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
11 Reform Code of 1971.

12 Section 2526-B. Lists.

13 The Department of Revenue shall provide to the General
14 Assembly, by June 30 of each year, a list of all scholarship
15 organizations, prekindergarten scholarship organizations and
16 educational improvement organizations that receive contributions
17 from business firms granted a tax credit.

18 Section 2527-B. Guidelines.

19 The department, in consultation with the Department of
20 Education, shall develop guidelines to determine the eligibility
21 of an innovative educational program.

22 Section 2. Repeals are as follows:

23 (1) The General Assembly declares that the repeal under
24 paragraph (2) is necessary to effectuate the addition of
25 Article XXV-B of the act.

26 (2) Article XVII-F of the act of March 4, 1971 (P.L.6,
27 No.2), known as the Tax Reform Code of 1971, is repealed.

28 Section 3. The provisions of Article XXV-B of the act are
29 severable. If any provision of that article or its application
30 to any person or circumstance is held invalid, the invalidity

1 shall not affect other provisions or applications of that
2 article which can be given effect without the invalid provision
3 or application.

4 Section 4. This act shall take effect in 60 days.