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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1329 Session of  
2015

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INTRODUCED BY ALLOWAY, SCARNATI, WHITE, EICHELBERGER, WAGNER,  
BROOKS, FOLMER, VULAKOVICH AND AUMENT, JULY 5, 2016

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REFERRED TO FINANCE, JULY 5, 2016

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AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,  
2 as amended, "An act relating to the finances of the State  
3 government; providing for the settlement, assessment,  
4 collection, and lien of taxes, bonus, and all other accounts  
5 due the Commonwealth, the collection and recovery of fees and  
6 other money or property due or belonging to the Commonwealth,  
7 or any agency thereof, including escheated property and the  
8 proceeds of its sale, the custody and disbursement or other  
9 disposition of funds and securities belonging to or in the  
10 possession of the Commonwealth, and the settlement of claims  
11 against the Commonwealth, the resettlement of accounts and  
12 appeals to the courts, refunds of moneys erroneously paid to  
13 the Commonwealth, auditing the accounts of the Commonwealth  
14 and all agencies thereof, of all public officers collecting  
15 moneys payable to the Commonwealth, or any agency thereof,  
16 and all receipts of appropriations from the Commonwealth,  
17 authorizing the Commonwealth to issue tax anticipation notes  
18 to defray current expenses, implementing the provisions of  
19 section 7(a) of Article VIII of the Constitution of  
20 Pennsylvania authorizing and restricting the incurring of  
21 certain debt and imposing penalties; affecting every  
22 department, board, commission, and officer of the State  
23 government, every political subdivision of the State, and  
24 certain officers of such subdivisions, every person,  
25 association, and corporation required to pay, assess, or  
26 collect taxes, or to make returns or reports under the laws  
27 imposing taxes for State purposes, or to pay license fees or  
28 other moneys to the Commonwealth, or any agency thereof,  
29 every State depository and every debtor or creditor of the  
30 Commonwealth," in general budget implementation, further  
31 providing for the Department of Human Services.

32 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 1729-E of the act of April 9, 1929  
3 (P.L.343, No.176), known as The Fiscal Code, is amended by  
4 adding a paragraph to read:

5 Section 1729-E. Department of Human Services.

6 The following shall apply to appropriations for the  
7 Department of Human Services:

8 \* \* \*

9 (4) The following shall apply:

10 (i) Subject to any applicable requirements of  
11 Federal statutes, rules, regulations or guidelines:

12 (A) Any expenditures or grants of public funds  
13 for family planning services by the department shall  
14 be made in the following order of priority:

15 (I) To nonpublic hospitals and federally  
16 qualified health centers.

17 (II) To rural health clinics.

18 (III) To State health centers.

19 (IV) To nonpublic health providers that have  
20 as their primary purpose the provision of the  
21 primary health care services enumerated under  
22 section 254b(a)(1) of the Public Health Service  
23 Act (58 Stat. 682, 42 U.S.C. § 254b(a)(1)).

24 (B) The department may not enter into a contract  
25 with or make a grant to any entity that performs  
26 abortions that are not federally qualified abortions  
27 or maintains or operates a facility where such  
28 abortions are performed, except as required by  
29 Federal law when the services are provided under  
30 Medicaid and by a qualified provider approved by the

1 Centers for Medicaid and Medicare Services.

2 (ii) Nothing in this paragraph shall be construed to  
3 apply to the receipt or administration of public funds  
4 pursuant to Title XIX of the Social Security Act (49  
5 Stat. 620, 42 U.S.C. § 1396 et seq.).

6 (iii) The Attorney General may bring an action in  
7 law or equity to enforce the provisions of this  
8 paragraph, and relief shall be available in appropriate  
9 circumstances, including, but not limited to, recoupment  
10 and declaratory and injunctive relief, including, but not  
11 limited to, suspension or debarment.

12 (iv) Any entity eligible for the receipt of public  
13 funds shall possess standing to bring any action that the  
14 Attorney General has authority to bring under the  
15 provisions of subparagraph (i), provided that if an  
16 expenditure or grant of public funds made in violation of  
17 this paragraph results in the reduction of public funds  
18 and a court awards monetary relief, the amount recovered  
19 shall be deposited into one or more accounts maintained  
20 by the Commonwealth for public funds.

21 (v) In an action brought under this paragraph, a  
22 prevailing plaintiff shall be entitled to an award of  
23 reasonable attorney fees and costs.

24 (vi) The General Assembly, through one or more  
25 members duly appointed by resolution of their respective  
26 chamber, may intervene as a matter of right in any case  
27 in which the constitutionality of this paragraph is  
28 challenged.

29 (vii) Any encumbrance of public funds in derogation  
30 of the provisions of subparagraph (i) shall be null and

1 void as of the effective date of this paragraph, and the  
2 funds so encumbered shall be reallocated to eligible  
3 entities.

4 (viii) The following words and phrases when used in  
5 this paragraph shall have the meanings given to them in  
6 this subparagraph unless the context clearly indicates  
7 otherwise:

8 "Abortion." The use of any means to terminate the  
9 clinically diagnosable pregnancy of a woman with  
10 knowledge that the termination by those means will cause,  
11 with reasonable likelihood, the death of the unborn  
12 child. The term does not include birth control devices,  
13 oral contraceptives used to inhibit or prevent ovulation,  
14 conception or the implantation of a fertilized ovum in  
15 the uterus or the use of any means to increase the  
16 probability of a live birth, to preserve the life or  
17 health of the child after a live birth, to terminate an  
18 ectopic pregnancy or to remove a dead fetus.

19 "Federally qualified abortion." An abortion  
20 qualified for Federal matching funds under the Medicaid  
21 program.

22 "Federally qualified health center." An entity as  
23 defined under section 1905(1)(2)(B) of the Social  
24 Security Act (49 Stat. 620, 42 U.S.C. § 1396d(1)(2)(B))  
25 that is eligible to receive Federal funds.

26 "Hospital." A primary or tertiary care facility  
27 licensed under State law.

28 "Public funds." State funds from whatever source,  
29 including, without limitation, State general revenue  
30 funds, State special account and limited purpose grants

1 or loans and Federal funds provided under Title X of the  
2 Public Health Service Act (58 Stat. 682, 42 U.S.C. § 201  
3 et seq.) and Titles IV, V and XX of the Social Security  
4 Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

5 "Rural health clinic." A health care provider that  
6 is eligible to receive Federal funds as defined in  
7 section 1861(aa)(2) of the Social Security Act (49 Stat.  
8 620, 42 U.S.C. § 1395x (aa)(2)).

9 (ix) It is the intent of the General Assembly that  
10 every provision of this paragraph shall operate with  
11 equal force and shall be severable one from the other and  
12 that in the event that any provision of this paragraph is  
13 held invalid or unenforceable by a court of competent  
14 jurisdiction, the provision shall be accordingly deemed  
15 severable and the remaining provisions deemed fully  
16 enforceable.

17 (x) This paragraph shall apply to fiscal years  
18 beginning after June 30, 2016.

19 Section 2. This act shall take effect immediately.