

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1531 Session of
2009

INTRODUCED BY GEORGE, MELIO, BELFANTI, BRADFORD, BRENNAN,
BRIGGS, BROWN, CALTAGIRONE, CARROLL, CASORIO, COHEN, CONKLIN,
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MURPHY, READSHAW, SEIP, SIPTROTH, STABACK, STURLA, WATERS,
YOUNGBLOOD, YUDICHAK, EACHUS, KORTZ, HOUGHTON, BURNS AND
MIRABITO, MAY 26, 2009

SENATE AMENDMENTS TO HOUSE AMENDMENTS, OCTOBER 5, 2009

AN ACT

1 ~~Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An~~ ←
2 ~~act relating to tax reform and State taxation by codifying~~
3 ~~and enumerating certain subjects of taxation and imposing~~
4 ~~taxes thereon; providing procedures for the payment,~~
5 ~~collection, administration and enforcement thereof; providing~~
6 ~~for tax credits in certain cases; conferring powers and~~
7 ~~imposing duties upon the Department of Revenue, certain~~
8 ~~employers, fiduciaries, individuals, persons, corporations~~
9 ~~and other entities; prescribing crimes, offenses and~~
10 ~~penalties," in sales and use tax, further providing for~~
11 ~~exclusions, for time for filing returns and for time of~~
12 ~~payment; in personal income tax, further providing for~~
13 ~~classes of income, for operational provisions and for payment~~
14 ~~of withheld taxes; in corporate net income tax, further~~
15 ~~providing for definitions; in capital stock franchise tax,~~
16 ~~further providing for definitions and reports, for imposition~~
17 ~~and for expiration; in gross receipts tax, further providing~~
18 ~~for imposition; in cigarette tax, further providing for~~
19 ~~incidence and rate, for floor tax, for the Health Care~~
20 ~~Provider Retention Account and for commissions on sales;~~
21 ~~further providing for other violations; providing for tobacco~~
22 ~~products tax and for severance tax; in research and~~
23 ~~development tax credit, further providing for carrying of~~
24 ~~credit; providing for educational improvement tax credit;~~
25 ~~repealing tax amnesty provisions; providing for reduction of~~
26 ~~tax credits; providing for tax amnesty for fiscal year~~
27 ~~2009-2010; providing for penalties for corporate officers,~~

~~for examination of books and records and for table games; and making related repeals.~~

AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT, COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND PENALTIES," IN SALES AND USE TAX, FURTHER PROVIDING FOR EXCLUSIONS, FOR TIME FOR FILING RETURNS AND FOR TIME OF PAYMENT; IN PERSONAL INCOME TAX, FURTHER PROVIDING FOR CLASSES OF INCOME, REENACTING PROVISIONS ON CONTRIBUTIONS AND FURTHER PROVIDING FOR OPERATIONAL PROVISIONS AND FOR PAYMENT OF WITHHELD TAXES; IN CORPORATE NET INCOME TAX, FURTHER PROVIDING FOR DEFINITIONS; IN CAPITAL STOCK FRANCHISE TAX, FURTHER PROVIDING FOR DEFINITIONS AND REPORTS, FOR IMPOSITION AND FOR EXPIRATION; IN GROSS RECEIPTS TAX, FURTHER PROVIDING FOR IMPOSITION; IN CIGARETTE TAX, FURTHER PROVIDING FOR DEFINITIONS, FOR INCIDENCE AND RATE, FOR FLOOR TAX, FOR LIABILITY FOR COLLECTION OF TAX, FOR THE HEALTH CARE PROVIDER RETENTION ACCOUNT, FOR STAMP TO EVIDENCE TAX AND FOR COMMISSIONS ON SALES AND PROVIDING FOR RETURN AND PAYMENT OF TAX FOR UNSTAMPED CIGARETTES AND FURTHER PROVIDING FOR SALES OF UNSTAMPED CIGARETTES, FOR POSSESSION OF UNSTAMPED CIGARETTES AND FOR OTHER VIOLATIONS; IN RESEARCH AND DEVELOPMENT TAX CREDIT, FURTHER PROVIDING FOR CARRYING OF CREDIT; PROVIDING FOR EDUCATIONAL IMPROVEMENT TAX CREDIT; REPEALING TAX AMNESTY PROVISIONS; PROVIDING FOR REDUCTION OF TAX CREDITS; PROVIDING FOR TAX AMNESTY FOR FISCAL YEAR 2009-2010; PROVIDING FOR PENALTIES FOR CORPORATE OFFICERS AND FOR EXAMINATION OF BOOKS AND RECORDS; AND MAKING RELATED REPEALS.

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

~~Section 1. Section 204 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended by adding clauses to read:~~

~~Section 204. Exclusions from Tax. The tax imposed by section 202 shall not be imposed upon any of the following:~~

~~* * *~~

~~(67) The sale at retail of repair or replacement parts, including the installation of those parts, exclusively for use in helicopters and similar rotorcraft or in overhauling or rebuilding of helicopters and similar rotorcraft or helicopter~~

1 ~~and similar rotorcraft components.~~

2 ~~(68) The sale at retail of helicopters and similar~~
3 ~~rotorcraft.~~

4 Section 2. ~~Section 217 of the act, amended July 1, 1985~~
5 ~~(P.L.78, No.29), is amended to read:~~

6 Section 217. ~~Time for Filing Returns.~~ (a) ~~Quarterly [and],~~
7 ~~Monthly and Semi monthly Returns:~~

8 ~~(1) For the year in which this article becomes effective and~~
9 ~~in each year thereafter a return shall be filed quarterly by~~
10 ~~every licensee on or before the twentieth day of April, July,~~
11 ~~October and January for the three months ending the last day of~~
12 ~~March, June, September and December.~~

13 ~~(2) For the year in which this article becomes effective,~~
14 ~~and in each year thereafter, a return shall be filed monthly~~
15 ~~with respect to each month by every licensee whose total tax~~
16 ~~reported, or in the event no report is filed, the total tax~~
17 ~~which should have been reported, for the third calendar quarter~~
18 ~~of the preceding year equals or exceeds six hundred dollars~~
19 ~~(\$600) and is less than twenty five thousand dollars (\$25,000).~~
20 ~~Such returns shall be filed on or before the twentieth day of~~
21 ~~the next succeeding month with respect to which the return is~~
22 ~~made. Any licensee required to file monthly returns hereunder~~
23 ~~shall be relieved from filing quarterly returns.~~

24 ~~(3) After May 31, 2010, a return shall be filed semi monthly~~
25 ~~with respect to each month by every licensee whose total tax~~
26 ~~reported, or in the event no report is filed, the total tax~~
27 ~~which should have been reported, for the third calendar quarter~~
28 ~~of the preceding year equals or exceeds twenty five thousand~~
29 ~~dollars (\$25,000). For the period from the first day of the~~
30 ~~month to the fifteenth day of the month, the returns shall be~~

1 ~~filed on or before the twenty fifth day of the month. For the~~
2 ~~period from the sixteenth day of the month to the last day of~~
3 ~~the month, the returns shall be filed on or before the tenth day~~
4 ~~of the next succeeding month with respect to which the return is~~
5 ~~made. Any licensee required to file semi monthly returns under~~
6 ~~this section shall be relieved from filing monthly or quarterly~~
7 ~~returns.~~

8 (b) ~~Annual Returns. For the calendar year 1971, and for each~~
9 ~~year thereafter, no annual return shall be filed, except as may~~
10 ~~be required by rules and regulations of the department~~
11 ~~promulgated and published at least sixty days prior to the end~~
12 ~~of the year with respect to which the returns are made. Where~~
13 ~~such annual returns are required licensees shall not be required~~
14 ~~to file such returns prior to the twentieth day of the year~~
15 ~~succeeding the year with respect to which the returns are made.~~

16 (c) ~~Other Returns. Any person, other than a licensee, liable~~
17 ~~to pay to the department any tax under this article, shall file~~
18 ~~a return on or before the twentieth day of the month succeeding~~
19 ~~the month in which such person becomes liable for the tax.~~

20 (d) ~~Small Taxpayers. The department, by regulation, may~~
21 ~~waive the requirement for the filing of quarterly return in the~~
22 ~~case of any licensee whose individual tax collections do not~~
23 ~~exceed seventy five dollars (\$75) per calendar quarter and may~~
24 ~~provide for reporting on a less frequent basis in such cases.~~

25 Section 3. ~~Section 222 of the act is amended to read:~~

26 Section 222. ~~Time of Payment. (a) Monthly, [Bimonthly]~~
27 ~~Semi monthly and Quarterly Payments. The tax imposed by this~~
28 ~~article and incurred or collected by a licensee shall be due and~~
29 ~~payable by the licensee on the day the return is required to be~~
30 ~~filed under the provisions of section 217 and such payment must~~

1 ~~accompany the return for such preceding period,~~

2 ~~(b) Annual Payments. If the amount of tax due for the~~
3 ~~preceding year as shown by the annual return of any taxpayer is~~
4 ~~greater than the amount already paid by him in connection with~~
5 ~~his monthly, semi monthly or quarterly returns he shall send~~
6 ~~with such annual return a remittance for the unpaid amount of~~
7 ~~tax for the year.~~

8 ~~(c) Other Payments. Any person other than a licensee liable~~
9 ~~to pay any tax under this article shall remit the tax at the~~
10 ~~time of filing the return required by this article.~~

11 ~~Section 4. Section 303(a.6) of the act, added July 6, 2006~~
12 ~~(P.L.319, No.67), is amended to read:~~

13 ~~Section 303. Classes of Income. * * *~~

14 ~~(a.6) Except as provided in this article and without regard~~
15 ~~to sections 220(f)(4) and 223(f)(4) of the Internal Revenue Code~~
16 ~~of 1986, the requirements of sections 106(b) and (d), 220 and~~
17 ~~223 of the Internal Revenue Code of 1986[, as amended to January~~
18 ~~1, 2005,] shall be applicable.~~

19 ~~* * *~~

20 ~~Section 5. Section 315.9 of the act, amended July 25, 2007~~
21 ~~(P.L.373, No.55), is amended to read:~~

22 ~~Section 315.9. Operational Provisions. (a) Except for the~~
23 ~~checkoff established under sections 315.2, 315.6 and 315.7 and~~
24 ~~except as otherwise provided [under subsection (b)] in this~~
25 ~~section, the checkoffs established under this part shall apply~~
26 ~~through taxable years ending December 31, 2007.~~

27 ~~(b) [Any] Except as set forth in subsection (c), any~~
28 ~~checkoff established under this part and applicable for the~~
29 ~~first time in a taxable year beginning after December 31, 2003,~~
30 ~~shall expire four years after the beginning of such first~~

1 ~~taxable year.~~

2 ~~(c) Sections [315.3 and 315.4 shall expire January 1, 2010]~~
3 ~~315.3, 315.4, 315.7 and 315.8 shall expire January 1, 2014.~~

4 ~~Section 6. Section 319 of the act, repealed and added August~~
5 ~~31, 1971 (P.L.362, No.93), is amended to read:~~

6 ~~Section 319. [Monthly, Semi monthly and Quarterly] Payment~~
7 ~~of Taxes Withheld. Every employer withholding tax under this~~
8 ~~article shall pay over to the department or to a depository~~
9 ~~designated by it the tax required to be deducted and withheld~~
10 ~~under this article.~~

11 ~~(1) Where the aggregate amount required to be deducted and~~
12 ~~withheld by any employer for [each quarterly period] a calendar~~
13 ~~year can reasonably be expected to be less than [three hundred~~
14 ~~dollars (\$300)] twelve hundred dollars (\$1,200), such employer~~
15 ~~shall file a return and pay the tax on or before the last day~~
16 ~~for filing a quarterly return under section 318.~~

17 ~~(2) Where the aggregate amount required to be deducted and~~
18 ~~withheld by any employer for [each quarterly period] a calendar~~
19 ~~year can reasonably be expected to be [three hundred dollars~~
20 ~~(\$300) or more but less than one thousand dollars (\$1,000)]~~
21 ~~twelve hundred dollars (\$1,200) or more but less than four~~
22 ~~thousand dollars (\$4,000), such employer shall pay the tax~~
23 ~~monthly, on or before the fifteenth day of the month succeeding~~
24 ~~the months of January to November, inclusive, and on or before~~
25 ~~the last day of January following the month of December.~~

26 ~~(3) Where the aggregate amount required to be deducted and~~
27 ~~withheld by any employer for [each quarterly period] a calendar~~
28 ~~year can reasonably be expected to be [one thousand dollars~~
29 ~~(\$1,000) or more] four thousand dollars (\$4,000) or more but~~
30 ~~less than twenty thousand dollars (\$20,000), such employer shall~~

1 ~~pay the tax semi-monthly, within three banking days after the~~
2 ~~close of the semi-monthly period.~~

3 ~~(4) Where the aggregate amount required to be deducted and~~
4 ~~withheld by any employer for a calendar year can reasonably be~~
5 ~~expected to be twenty thousand dollars (\$20,000) or more, such~~
6 ~~employer shall pay the tax on the Wednesday after payday if the~~
7 ~~payday falls on a Wednesday, Thursday or Friday and on the~~
8 ~~Friday after payday if the payday falls on a Saturday, Sunday,~~
9 ~~Monday or Tuesday.~~

10 ~~Notwithstanding anything in this section to the contrary,~~
11 ~~whenever any employer fails to deduct or truthfully account for~~
12 ~~or pay over the tax withheld or file returns as prescribed by~~
13 ~~this article, the department may serve a notice on such employer~~
14 ~~requiring him to withhold taxes which are required to be~~
15 ~~deducted under this article and deposit such taxes in a bank~~
16 ~~approved by the department in a separate account in trust for~~
17 ~~and payable to the department, and to keep the amount of such~~
18 ~~tax in such account until payment over to the department. Such~~
19 ~~notice shall remain in effect until a notice of cancellation is~~
20 ~~served on the employer by the department.~~

21 ~~Section 7. Section 401(3)2(a)(9) and 4(c) of the act,~~
22 ~~amended July 12, 2006 (P.L.1137, No.116), are amended to read:~~

23 ~~Section 401. Definitions. The following words, terms, and~~
24 ~~phrases, when used in this article, shall have the meaning~~
25 ~~ascribed to them in this section, except where the context~~
26 ~~clearly indicates a different meaning:~~

27 ~~* * *~~

28 ~~(3) "Taxable income." * * *~~

29 ~~2. In case the entire business of any corporation, other~~
30 ~~than a corporation engaged in doing business as a regulated~~

1 ~~investment company as defined by the Internal Revenue Code of~~
2 ~~1986, is not transacted within this Commonwealth, the tax~~
3 ~~imposed by this article shall be based upon such portion of the~~
4 ~~taxable income of such corporation for the fiscal or calendar~~
5 ~~year, as defined in subclause 1 hereof, and may be determined as~~
6 ~~follows:~~

7 ~~(a) Division of Income.~~

8 ~~* * *~~

9 ~~(9) (A) Except as provided in subparagraph (B):~~

10 ~~(i) For taxable years beginning before January 1, 2007, all~~
11 ~~business income shall be apportioned to this State by~~
12 ~~multiplying the income by a fraction, the numerator of which is~~
13 ~~the property factor plus the payroll factor plus three times the~~
14 ~~sales factor and the denominator of which is five.~~

15 ~~(ii) For taxable years beginning after December 31, 2006,~~
16 ~~all business income shall be apportioned to this State by~~
17 ~~multiplying the income by a fraction, the numerator of which is~~
18 ~~the sum of fifteen times the property factor, fifteen times the~~
19 ~~payroll factor and seventy times the sales factor and the~~
20 ~~denominator of which is one hundred.~~

21 ~~(iii) For taxable years beginning after December 31, 2008,~~
22 ~~all business income shall be apportioned to this State by~~
23 ~~multiplying the income by a fraction: the numerator of which is~~
24 ~~the sum of eight and a half times the property factor, eight and~~
25 ~~a half times the payroll factor and eighty three times the sales~~
26 ~~factor; and the denominator of which is one hundred.~~

27 ~~(iv) For taxable years beginning after December 31, 2009,~~
28 ~~all business income shall be apportioned to this State by~~
29 ~~multiplying the income by a fraction: the numerator of which is~~
30 ~~the sum of five times the property factor, five times the~~

1 ~~payroll factor and ninety times the sales factor; and the~~
2 ~~denominator of which is one hundred.~~

3 ~~(B) For purposes of apportionment of the capital stock—~~
4 ~~franchise tax as provided in section 602 of Article VI of this~~
5 ~~act, the apportionment fraction shall be the property factor~~
6 ~~plus the payroll factor plus the sales factor as the numerator,~~
7 ~~and the denominator shall be three.~~

8 * * *

9 4. * * *

10 ~~(c) (1) The net loss deduction shall be the lesser of:~~

11 ~~(A) (I) For taxable years beginning before January 1, 2007,~~
12 ~~two million dollars (\$2,000,000);~~

13 ~~(II) For taxable years beginning after December 31, 2006,~~
14 ~~the greater of twelve and one half per cent of taxable income as~~
15 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
16 ~~three million dollars (\$3,000,000); [or]~~

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

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

25 ~~(B) The amount of the net loss or losses which may be~~
26 ~~carried over to the taxable year or taxable income as determined~~
27 ~~under subclause 1 or, if applicable, subclause 2.~~

28 ~~(1.1) In no event shall the net loss deduction include more~~
29 ~~than five hundred thousand dollars (\$500,000), in the aggregate,~~
30 ~~of net losses from taxable years 1988 through 1994.~~

1 ~~(2) (A) A net loss for a taxable year may only be carried~~
2 ~~over pursuant to the following schedule:~~

3	Taxable Year	Carryover
4	1981	1 taxable year
5	1982	2 taxable years
6	1983-1987	3 taxable years
7	1988	2 taxable years plus
8	-	1 taxable year
9	-	starting with the
10	-	1995 taxable year
11	1989	1 taxable year plus
12	-	2 taxable years
13	-	starting with the
14	-	1995 taxable year
15	1990-1993	3 taxable years
16	-	starting with the
17	-	1995 taxable year
18	1994	1 taxable year
19	1995-1997	10 taxable years
20	1998 and thereafter	20 taxable years

21 ~~(B) The earliest net loss shall be carried over to the~~
22 ~~earliest taxable year to which it may be carried under this~~
23 ~~schedule. The total net loss deduction allowed in any taxable~~
24 ~~year shall not exceed:~~

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

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

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

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

9 * * *

10 Section 7.1. ~~The definition of "capital stock value" in~~
11 ~~section 601 of the act, amended July 6, 2006 (P.L.319, No.67),~~
12 ~~is amended to read:~~

13 Section 601. Definitions and Reports. (a) ~~The following~~
14 ~~words, terms and phrases when used in this Article VI shall have~~
15 ~~the meaning ascribed to them in this section, except where the~~
16 ~~context clearly indicates a different meaning:~~

17 * * *

18 "Capital stock value." ~~The amount computed pursuant to the~~
19 ~~following formula: the product of one half times the sum of the~~
20 ~~average net income capitalized at the rate of nine and one half~~
21 ~~per cent plus seventy five per cent of net worth, from which~~
22 ~~product shall be subtracted [one hundred fifty thousand dollars~~
23 ~~(\$150,000)] one hundred sixty thousand dollars (\$160,000), the~~
24 ~~algebraic equivalent of which is~~

25 ~~(.5 X (average net income/.095 + (.75)~~
26 ~~(net worth))) ~~[\$150,000] \$160,000~~~~

27 * * *

28 Section 8. ~~Section 602(h) of the act, amended July 6, 2006~~
29 ~~(P.L.319, No.67), is amended to read:~~

30 Section 602. Imposition of Tax. * * *

1 ~~(h) The rate of tax for purposes of the capital stock and~~
2 ~~franchise tax for taxable years beginning within the dates set~~
3 ~~forth shall be as follows:~~

Taxable Year	Regular Rate	Surtax	Total Rate
January 1, 1971, to			
December 31, 1986	10 mills	0	10 mills
January 1, 1987, to			
December 31, 1990	9 mills	0	9 mills
January 1, 1988, to			
December 31, 1990	9.5 mills	0	9.5 mills
January 1, 1991, to			
December 31, 1991	11 mills	2 mills	13 mills
January 1, 1992, to			
December 31, 1997	11 mills	1.75 mills	12.75 mills
January 1, 1998, to			
December 31, 1998	11 mills	-.99 mills	11.99 mills
January 1, 1999, to			
December 31, 1999	10.99 mills	0	10.99 mills
January 1, 2000, to			
December 31, 2000	8.99 mills	0	8.99 mills
January 1, 2001, to			
December 31, 2001	7.49 mills	0	7.49 mills
January 1, 2002, to			
December 31, 2003	7.24 mills	0	7.24 mills
January 1, 2004, to			
December 31, 2004	6.99 mills	0	6.99 mills
January 1, 2005, to			
December 31, 2005	5.99 mills	0	5.99 mills
January 1, 2006, to			
December 31, 2006	4.89 mills	0	4.89 mills

1 ~~January 1, 2007, to~~
 2 ~~December 31, 2007 3.89 mills 0 3.89 mills~~
 3 ~~{January 1, 2008, to~~
 4 ~~December 31, 2008 2.89 mills 0 2.89 mills~~
 5 ~~January 1, 2009, to~~
 6 ~~December 31, 2009 1.89 mills 0 1.89 mills~~
 7 ~~January 1, 2010, to~~
 8 ~~December 31, 2010 -.89 mills 0 -.89 mills}~~
 9 January 1, 2008, to
 10 December 31, 2011 2.89 mills 0 2.89 mills
 11 January 1, 2012, to
 12 December 31, 2012 1.89 mills 0 1.89 mills
 13 January 1, 2013, to
 14 December 31, 2013 -.89 mills 0 -.89 mills

15 * * *

16 ~~Section 9. Section 607 of the act, amended December 23, 2003~~
 17 ~~(P.L.250, No.46), is amended to read:~~

18 ~~Section 607. Expiration. This article shall expire for~~
 19 ~~taxable years beginning after December 31, [2010] 2013.~~

20 ~~Section 9.1. Section 1101(c), (c.1), (e) and (j) of the act,~~
 21 ~~amended or added August 4, 1991 (P.L.97, No.22), December 23,~~
 22 ~~2003 (P.L.250, No.46) and October 18, 2006 (P.L.1149, No.119),~~
 23 ~~are amended and the section is amended by adding a subsection to~~
 24 ~~read:~~

25 ~~Section 1101. Imposition of Tax. * * *~~

26 ~~(b.1) Managed Care Organizations. Every managed care~~
 27 ~~organization now or hereafter incorporated or organized by or~~
 28 ~~under any law of the Commonwealth or a political subdivision~~
 29 ~~thereof, or now or hereafter organized or incorporated by any~~
 30 ~~other state or by the United States or any foreign government~~

1 ~~and doing business in this Commonwealth that is a party to a~~
2 ~~Medicaid managed care contract with the Department of Public~~
3 ~~Welfare, shall pay to the State Treasurer, through the~~
4 ~~Department of Revenue, a tax of 59 mills upon each dollar of the~~
5 ~~gross receipts received from payments pursuant to a Medicaid~~
6 ~~managed care contract with the Department of Public Welfare~~
7 ~~through its Medical Assistance Program under Subchapter XIX of~~
8 ~~the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et~~
9 ~~seq.). This subsection shall also apply to a Medicaid managed~~
10 ~~care organization, as defined in section 1903(m)(1)(A) of the~~
11 ~~Social Security Act (42 U.S.C. § 1396b(m)(1)(A)); to a county~~
12 ~~Medicaid managed care organization; and to a permitted assignee~~
13 ~~of a Medicaid managed care contract. This subsection shall not~~
14 ~~apply to an assignor of a Medicaid managed care contract. The~~
15 ~~revenue collected under this subsection shall be placed in a~~
16 ~~restricted receipts account in the General Fund and is~~
17 ~~appropriated as an augmentation to the capitation appropriation~~
18 ~~of the Department of Public Welfare.~~

19 ~~(1) If the Centers for Medicare and Medicaid Services of the~~
20 ~~Department of Health and Human Services issues a written~~
21 ~~determination of a deferral, disallowance or disapproval of~~
22 ~~Federal financial participation on the grounds that the tax~~
23 ~~imposed under this subsection constitutes an impermissible~~
24 ~~health care related tax under Subchapter XIX of the Social~~
25 ~~Security Act, the Secretary of Public Welfare shall notify the~~
26 ~~Secretary of Revenue of that determination. If notification is~~
27 ~~made under this paragraph, the tax under this subsection shall~~
28 ~~cease to be imposed after the last day of the month in which~~
29 ~~notification is made.~~

30 ~~(2) If, within sixty days after issuance of the notice under~~

1 ~~paragraph (1), legislation is not enacted to provide a~~
2 ~~substitute for the funds lost due to the cessation of the tax~~
3 ~~under paragraph (1), the Department of Public Welfare may~~
4 ~~exercise any rights under its Medicaid managed care contract to~~
5 ~~cease payments under or terminate the contract for services with~~
6 ~~a managed care organization.~~

7 ~~(c) Payment of Tax; Reports. The said taxes imposed under~~
8 ~~subsections (a) [and], (b) and (b.1) shall be paid within the~~
9 ~~time prescribed by law, and for the purpose of ascertaining the~~
10 ~~amount of the same, it shall be the duty of the treasurer or~~
11 ~~other proper officer of the said company, copartnership, limited~~
12 ~~partnership, association, joint stock association or~~
13 ~~corporation, or person or persons, to transmit to the Department~~
14 ~~of Revenue on or before March 15 of each year an annual report,~~
15 ~~and under oath or affirmation, of the amount of gross receipts~~
16 ~~of the said companies, copartnerships, corporations,~~
17 ~~associations, joint stock associations, limited partnerships,~~
18 ~~person or persons, derived from all sources, and of gross~~
19 ~~receipts from business done wholly within this State and in the~~
20 ~~case of electric energy producers that transmit energy to other~~
21 ~~states referred to in clause (2) of subsection (b), a~~
22 ~~compilation of the relevant information regarding operating and~~
23 ~~maintenance expenses and depreciation, during the period of~~
24 ~~twelve months immediately preceding January 1 of each year. [It~~
25 ~~shall be the further duty of the treasurer or other proper~~
26 ~~officer of every such corporation or association and every~~
27 ~~individual liable by law to report or pay said taxes imposed~~
28 ~~under subsections (a) and (b) except municipalities to transmit~~
29 ~~to the Department of Revenue on or before April 30 of each year,~~
30 ~~a tentative report in like form and manner for each twelve month~~

1 ~~period beginning January 1, of each year. The tentative report~~
2 ~~shall set forth (i) the amount of gross receipts received in the~~
3 ~~period of twelve months next preceding and reported in the~~
4 ~~annual report; or (ii) the gross receipts received in the first~~
5 ~~three months of the current period of twelve months; and (iii)~~
6 ~~such other information as the Department of Revenue may~~
7 ~~require.]~~

8 ~~(c.1) Safe Harbor Base Year. For purposes of the estimated~~
9 ~~tax requirements under sections 3003.2 and 3003.3, the "safe~~
10 ~~harbor base year" tax amount for providers of mobile~~
11 ~~telecommunications services and for a Medicaid managed care~~
12 ~~organization subject to the provisions of subsection (b.1) shall~~
13 ~~be the amount that would have been required to be paid by the~~
14 ~~taxpayer if the taxpayer had been subject to this article.~~

15 ~~* * *~~

16 ~~(e) Time to File Reports. The time for filing annual~~
17 ~~reports may be extended, estimated assessments may be made by~~
18 ~~the Department of Revenue if reports are not filed, and the~~
19 ~~penalties for failing to file reports and pay the taxes imposed~~
20 ~~under subsections (a) [and], (b) and (b.1) shall be as~~
21 ~~prescribed by the laws defining the powers and duties of the~~
22 ~~Department of Revenue. In any case where the works of any~~
23 ~~corporation, company, copartnership, association, joint stock~~
24 ~~association, limited partnership, person or persons are operated~~
25 ~~by another corporation, company, copartnership, association,~~
26 ~~joint stock association, limited partnership, person or persons,~~
27 ~~the taxes imposed under subsections (a) [and], (b) and (b.1)~~
28 ~~shall be apportioned between the corporations, companies,~~
29 ~~copartnerships, associations, joint stock associations, limited~~
30 ~~partnerships, person or persons in accordance with the terms of~~

1 ~~their respective leases or agreements, but for the payment of~~
2 ~~the said taxes the Commonwealth shall first look to the~~
3 ~~corporation, company, copartnership, association, joint stock~~
4 ~~association, limited partnership, person or persons operating~~
5 ~~the works, and upon payment by the said company, corporation,~~
6 ~~copartnership, association, joint stock association, limited~~
7 ~~partnership, person or persons of a tax upon the receipts, as~~
8 ~~herein provided, derived from the operation thereof, no other~~
9 ~~corporation, company, copartnership, association, joint stock~~
10 ~~association, limited partnership, person or persons shall be~~
11 ~~held liable for any tax imposed under subsections (a) [and], (b)~~
12 ~~and (b.1) upon the proportion of said receipts received by said~~
13 ~~corporation, company, copartnership, association, joint stock~~
14 ~~association, limited partnership, person or persons for the use~~
15 ~~of said works.~~

16 * * *

17 ~~(j) Schedule for Estimated Payments.~~

18 ~~(1) For calendar year 2004, the following schedule applies~~
19 ~~to the payment of the tax under subsection (a) (3):~~

20 ~~(i) Forty per cent of the estimated tax shall be due on~~
21 ~~March 15, 2004.~~

22 ~~(ii) Forty per cent of the estimated tax shall be due on~~
23 ~~June 15, 2004.~~

24 ~~(iii) Twenty per cent of the estimated tax shall be due on~~
25 ~~September 15, 2004.~~

26 ~~(2) For calendar years after 2004, the payment of the~~
27 ~~estimated tax under subsection (a) (3) shall be due in accordance~~
28 ~~with section 3003.2.~~

29 ~~(3) For calendar year 2009, the tax applicable to the~~
30 ~~payment of the tax under subsection (b.1) shall be due on March~~

1 ~~15, 2010.~~

2 ~~(4) For calendar year 2010, payments of the estimated tax~~
3 ~~under subsection (b.1) shall be due on May 15, 2010. For~~
4 ~~calendar year 2011 and each calendar year thereafter, the~~
5 ~~payment of the estimated tax under subsection (b.1) shall be due~~
6 ~~in accordance with section 3003.2.~~

7 * * *

8 Section 9.2. Sections 1206 and 1206.1 of the act, amended
9 December 23, 2003 (P.L.250, No.46), are amended to read:

10 Section 1206. Incidence and Rate of Tax. An excise tax is
11 hereby imposed and assessed upon the sale or possession of
12 cigarettes within this Commonwealth at the rate of [six and
13 seventy five hundredths] eight cents per cigarette.

14 Section 1206.1. Floor Tax. (a) A person who possesses
15 cigarettes on which the tax imposed by section 1206 has been
16 paid as of the effective date of this section shall pay an
17 additional tax at a rate of [one and seventy five] one and
18 twenty five hundredths cents per cigarette. The tax shall be
19 paid and reported on a form prescribed by the department within
20 ninety days of the effective date of this section.

21 (b) If a cigarette dealer fails to file the report required
22 by subsection (a) or fails to pay the tax imposed by subsection
23 (a), the department may, in addition to the interest and
24 penalties provided in section 1278, do any of the following:

25 (1) Impose an administrative penalty equal to the amount of
26 tax evaded or not paid. The penalty shall be added to the tax
27 evaded or not paid and assessed and collected at the same time
28 and in the same manner as the tax.

29 (2) Suspend or revoke a cigarette dealer's license.

30 (c) In addition to any penalty imposed under subsection (b),

1 ~~a person who wilfully omits, neglects or refuses to comply with~~
2 ~~a duty imposed under subsection (a) commits a misdemeanor and~~
3 ~~shall, upon conviction, be sentenced to pay a fine of not less~~
4 ~~than two thousand five hundred dollars (\$2,500) nor more than~~
5 ~~five thousand dollars (\$5,000), to serve a term of imprisonment~~
6 ~~not to exceed thirty days or both.~~

7 ~~Section 9.3. Sections 1211 and 1216 of the act, amended or~~
8 ~~added December 23, 2003 (P.L.250, No.46), are amended to read:~~

9 ~~{Section 1211. Health Care Provider Retention Account.}~~

10 ~~There is established in the General Fund a special account to be~~
11 ~~known as the Health Care Provider Retention Account. Eighteen~~
12 ~~and fifty two hundredths per cent of the proceeds of the tax~~
13 ~~imposed by section 1206 shall be deposited in the account. Funds~~
14 ~~in the account shall be subject to an annual appropriation and~~
15 ~~shall be administered as provided by law.}~~

16 ~~Section 1216. Commissions on Sales. A cigarette stamping~~
17 ~~agent shall be entitled to a commission for the agent's services~~
18 ~~and expenses in affixing cigarette tax stamps. The commission~~
19 ~~shall be equal to [ninety eight] eighty five hundredths per cent~~
20 ~~of the total value of Pennsylvania cigarette tax stamps~~
21 ~~purchased by the agent from the department or its authorized~~
22 ~~agents to be used in the stamping of packages of cigarettes for~~
23 ~~sale within this Commonwealth. The cigarette stamping agent may~~
24 ~~deduct from the moneys to be paid to the department or its~~
25 ~~authorized agents for the stamps an amount equal to [ninety~~
26 ~~eight] eighty five hundredths per cent of the value of the~~
27 ~~stamps purchased. This section shall not apply to purchases of~~
28 ~~stamps by a cigarette stamping agent in an amount less than one~~
29 ~~hundred dollars (\$100).~~

30 ~~Section 9.4. Section 1278 of the act, amended or added~~

1 ~~December 21, 1981 (P.L.482, No.141) and June 22, 2001 (P.L.353,~~
2 ~~No.23), is amended to read:~~

3 ~~Section 1278. Other Violations. (a) Any person who~~
4 ~~wilfully omits, neglects, or refuses to comply with any duty~~
5 ~~imposed upon him by this article or does anything prohibited by~~
6 ~~this article for which no specific penalty is otherwise~~
7 ~~provided, shall upon conviction in a summary proceeding be~~
8 ~~sentenced to pay a fine not to exceed five hundred dollars~~
9 ~~(\$500) and costs of prosecution, and, in default of payment~~
10 ~~thereof, to undergo imprisonment for not more than thirty days.~~

11 ~~(b) Any person who wilfully omits or neglects to file any~~
12 ~~return required or pay any tax imposed by this article, or~~
13 ~~attempts in any manner to evade or defeat the tax or payment~~
14 ~~thereof, shall, in addition to any other penalty provided in~~
15 ~~this article, be liable to a penalty equal to the amount of tax~~
16 ~~evaded or not paid, which penalty shall be added to the tax and~~
17 ~~assessed and collected at the same time in the same manner as a~~
18 ~~part of the tax.~~

19 ~~(c) Any person who fails to file any return required or pay~~
20 ~~tax at the time prescribed shall, in addition to any other~~
21 ~~penalty provided in this article, be liable to a penalty of five~~
22 ~~per cent of the tax due but unpaid for each month or fraction~~
23 ~~thereof the tax remains unpaid together with the interest at the~~
24 ~~rate established pursuant to section 806 of the act of April 9,~~
25 ~~1929 (P.L.343, No.176), known as "The Fiscal Code," on such tax~~
26 ~~from the time the tax became due. The penalties provided in this~~
27 ~~subsection shall be added to the tax and assessed and collected~~
28 ~~at the same time in the same manner and as a part of the tax.~~

29 ~~Section 9.5. The act is amended by adding articles to read:~~

30 ~~ARTICLE XII A~~

TOBACCO PRODUCTS TAX

Section 1201 A. Definitions.

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

"Cigar." Any roll of tobacco wrapped in tobacco.

"Cigarette." Includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco, and shall not include cigars or roll your own tobacco.

"Cigarillo." A short, narrow cigar, wrapped in whole leaf tobacco. The term includes filtered cigarillos, which are sometimes called little cigars.

"Consumer." An individual who purchases tobacco products for personal use and not for resale.

"Contraband." Any tobacco product for which the tax imposed by this article has not been paid.

"Dealer." A wholesaler or retailer. Nothing in this article shall preclude any person from being a wholesaler or retailer, provided the person meets the requirements for a license in each category of dealer.

"Department." The Department of Revenue of the Commonwealth.

"Manufacturer." A person that produces tobacco products.

"Person." An individual, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, conservator, any political subdivision of the Commonwealth or any other state. Whenever used in any of the provisions of this

1 ~~article prescribing or imposing penalties, the word "person" as~~
2 ~~applied to a partnership, unincorporated association or other~~
3 ~~joint venture, means the partners or members thereof, and as~~
4 ~~applied to a corporation, means all the officers and directors~~
5 ~~thereof.~~

6 ~~"Purchase price." The total value of anything paid or~~
7 ~~delivered, or promised to be paid or delivered, whether it be~~
8 ~~money or otherwise, in complete performance of a sale or~~
9 ~~purchase, without any deduction on account of the cost or value~~
10 ~~of the property sold, cost or value of transportation, cost or~~
11 ~~value of labor or service, interest or discount paid or allowed~~
12 ~~after the sale is consummated, any other taxes imposed by the~~
13 ~~Commonwealth or any other expense.~~

14 ~~"Retailer." A person that purchases or receives tobacco~~
15 ~~products from any source for the purpose of sale to a consumer,~~
16 ~~or who owns, leases or otherwise operates one or more vending~~
17 ~~machines for the purpose of sale of tobacco products to the~~
18 ~~ultimate consumer. The term includes a vending machine operator~~
19 ~~or a person that buys, sells, transfers or deals in tobacco~~
20 ~~products and is not licensed as a tobacco products wholesaler~~
21 ~~under this article.~~

22 ~~"Roll your own tobacco." Any tobacco which, because of its~~
23 ~~appearance, type, packaging or labeling, is suitable for use and~~
24 ~~is likely to be offered to, or purchased by, consumers as~~
25 ~~tobacco for making cigarettes. For purposes of reporting sales~~
26 ~~of this product under the act of June 22, 2000 (P.L.394, No.54),~~
27 ~~known as the Tobacco Settlement Agreement Act, 0.09 ounces of~~
28 ~~tobacco shall constitute one individual unit sold.~~

29 ~~"Sale." Any transfer of ownership, custody or possession of~~
30 ~~tobacco products for consideration; any exchange, barter or~~

1 ~~gift; or any offer to sell or transfer the ownership, custody or~~
2 ~~possession of tobacco products for consideration.~~

3 ~~"Taxpayer." Any person subject to tax under this article.~~

4 ~~"Tobacco products." Cigars, cigarillos, cheroots, stogies,~~
5 ~~periques, granulated, plug cut, crimp cut, ready rubbed and~~
6 ~~other smoking tobacco, roll your own tobacco, snuff, dry snuff,~~
7 ~~snuff flour, cavendish, plug and twist tobacco, fine cut and~~
8 ~~other chewing tobaccos, shorts, refuse scraps, clippings,~~
9 ~~cuttings and sweepings of tobacco and other kinds and forms of~~
10 ~~tobacco, prepared in such manner as to be suitable for chewing~~
11 ~~or ingesting or for smoking in a pipe or otherwise, or both for~~
12 ~~chewing and smoking. The term does not include cigarettes.~~

13 ~~"Unclassified importer." A person in this Commonwealth that~~
14 ~~acquires a tobacco product from any source on which the tax~~
15 ~~imposed by this article was not paid and that is not a person~~
16 ~~otherwise required to be licensed under the provisions of this~~
17 ~~article. The term includes, but is not limited to, consumers who~~
18 ~~purchase tobacco products using the Internet or mail order~~
19 ~~catalogs for personal possession or use in this Commonwealth.~~

20 ~~"Vending machine operator." A person who places or services~~
21 ~~one or more tobacco product vending machines whether owned,~~
22 ~~leased or otherwise operated by the person at locations from~~
23 ~~which tobacco products are sold to the consumer. The owner or~~
24 ~~tenant of the premises upon which a vending machine is placed~~
25 ~~shall not be considered a vending machine operator if the~~
26 ~~owner's or tenant's sole remuneration therefrom is a flat rental~~
27 ~~fee or commission based upon the number or value of tobacco~~
28 ~~products sold from the machine, unless the owner or tenant~~
29 ~~actually owns the vending machine or leases the vending machine~~
30 ~~under an agreement whereby any profits from the sale of the~~

1 ~~tobacco products directly inure to the owner's or tenant's~~
2 ~~benefit.~~

3 ~~"Wholesaler." A person engaged in the business of selling~~
4 ~~tobacco products that receives, stores, sells, exchanges or~~
5 ~~distributes tobacco products to retailers or other wholesalers~~
6 ~~in this Commonwealth or retailers who purchase from a~~
7 ~~manufacturer or from another wholesaler who has not paid the tax~~
8 ~~imposed by this article.~~

9 ~~Section 1202 A. Incidence and rate of tax.~~

10 ~~(a) Imposition. A tobacco products tax is hereby imposed on~~
11 ~~the dealer, manufacturer or any person at the time the tobacco~~
12 ~~product is first sold to a retailer in this Commonwealth at the~~
13 ~~rate of 30% on the purchase price charged to the retailer for~~
14 ~~the purchase of any tobacco product. The tax shall be collected~~
15 ~~from the retailer by whomever sells the tobacco product to the~~
16 ~~retailer and remitted to the department. Any person required to~~
17 ~~collect this tax shall separately state the amount of tax on an~~
18 ~~invoice or other sales document.~~

19 ~~(b) Retailer. If the tax is not collected by the seller~~
20 ~~from the retailer, the tax is imposed on the retailer at the~~
21 ~~time of purchase at the same rate as in subsection (a) based on~~
22 ~~the retailer's purchase price of the tobacco products. The~~
23 ~~retailer shall remit the tax to the department.~~

24 ~~(c) Unclassified importer. The tax is imposed on an~~
25 ~~unclassified importer at the time of purchase at the same rate~~
26 ~~as in subsection (a) based on the unclassified importer's~~
27 ~~purchase price of the tobacco products. The unclassified~~
28 ~~importer shall remit the tax to the department.~~

29 ~~(d) Exceptions. The tax shall not be imposed on any tobacco~~
30 ~~products that:~~

~~(1) are exported for sale outside this Commonwealth; or
(2) are not subject to taxation by the Commonwealth
pursuant to any laws of the United States.~~

~~Section 1203 A. Floor tax.~~

~~(a) Payment. Any retailer that, as of the effective date of
this article, possesses tobacco products subject to the tax
imposed by section 1202 A, shall pay the tax on the tobacco
products in accordance with the rates specified in section 1202-
A. The tax shall be paid and reported on a form prescribed by
the department within 90 days of the effective date of this
section.~~

~~(b) Administrative penalty; license. If a retailer fails to
file the report required by subsection (a) or fails to pay the
tax imposed by subsection (a), the department may, in addition
to the interest and penalties provided in section 1215 A, do any
of the following:~~

~~(1) Impose an administrative penalty equal to the amount
of tax evaded or not paid. The penalty shall be added to the
tax evaded or not paid and assessed and collected at the same
time and in the same manner as the tax.~~

~~(2) Suspend, revoke or refuse to issue the retailer's
license.~~

~~(c) Criminal penalty. In addition to any penalty imposed
under subsection (b), a person that willfully omits, neglects or
refuses to comply with a duty imposed under subsection (a)
commits a misdemeanor and shall, if convicted, be sentenced to
pay a fine of not less than \$2,500 nor more than \$5,000, to
serve a term of imprisonment not to exceed 30 days, or both.~~

~~Section 1204 A. Remittance of tax to department.~~

~~Wholesalers, retailers, unclassified importers and~~

~~1 manufacturers shall file monthly reports on a form prescribed by
2 the department by the 20th day of the month following the sale
3 or purchase of tobacco products from any other source on which
4 the tax levied by this article has not been paid. The tax is due
5 at the time the report is due. The department may required the
6 filing of reports and payment of tax on a less frequent basis at
7 its discretion.~~

~~8 Section 1205 A. (Reserved).~~

~~9 Section 1206 A. Procedures for claiming refund.~~

~~10 A claim for a refund of tax imposed by this article under
11 section 3003.1 and Article XXVII shall be in the form and
12 contain the information prescribed by the department by
13 regulation.~~

~~14 Section 1207 A. Sales or possession of tobacco product when tax
15 not paid.~~

~~16 (a) Sales or possession. Any person who sells or possesses
17 any tobacco product for which the proper tax has not been paid
18 commits a summary offense and shall, upon conviction, be
19 sentenced to pay costs of prosecution and a fine of not less
20 than \$100 not more than \$1,000 or to imprisonment for not more
21 than 60 days, or both, at the discretion of the court. Any
22 tobacco products purchased from a wholesaler properly licensed
23 under this article shall be presumed to have the proper taxes
24 paid.~~

~~25 (b) Tax evasion. Any person that shall falsely or
26 fraudulently, maliciously, intentionally or willfully with
27 intent to evade the payment of the tax imposed by this article
28 sells or possesses any tobacco product for which the proper tax
29 has not been paid commits a felony and shall, upon conviction,
30 be sentenced to pay costs of prosecution and a fine of not more~~

~~1 than \$15,000 or to imprisonment for not more than five years, or
2 both, at the discretion of the court.~~

~~3 Section 1208 A. Assessment.~~

~~4 The department is authorized to make the inquiries,
5 determinations and assessments of the tax, including interest,
6 additions and penalties, imposed by this article.~~

~~7 Section 1209 A. (Reserved).~~

~~8 Section 1210 A. (Reserved).~~

~~9 Section 1211 A. Failure to file return.~~

~~10 Where no return is filed, the amount of the tax due may be
11 assessed and collected at any time as to taxable transactions
12 not reported.~~

~~13 Section 1212 A. False or fraudulent return.~~

~~14 Where the taxpayer willfully files a false or fraudulent
15 return with intent to evade the tax imposed by this article, the
16 amount of tax due may be assessed and collected at any time.~~

~~17 Section 1213 A. Extension of limitation period.~~

~~18 Notwithstanding any other provision of this article, where,
19 before the expiration of the period prescribed for the
20 assessment of a tax, a taxpayer has consented, in writing, that
21 the period be extended, the amount of tax due may be assessed at
22 any time within the extended period. The period so extended may
23 be extended further by subsequent consents, in writing, made
24 before the expiration of the extended period.~~

~~25 Section 1214 A. Failure to furnish information, returning false
26 information or failure to permit inspection.~~

~~27 (a) Penalty. Any taxpayer who fails to keep or make any
28 record, return, report, inventory or statement, or keeps or
29 makes any false or fraudulent record, return, report, inventory
30 or statement required by this article commits a misdemeanor and~~

1 ~~shall, upon conviction, be sentenced to pay costs of prosecution~~
2 ~~and a fine of \$500 and to imprisonment for not more than one~~
3 ~~year, or both, at the discretion of the court.~~

4 ~~(b) Examination. The department is authorized to examine~~
5 ~~the books and records, the stock of tobacco products and the~~
6 ~~premises and equipment of any taxpayer in order to verify the~~
7 ~~accuracy of the payment of the tax imposed by this article. The~~
8 ~~person subject to an examination shall give to the department or~~
9 ~~its duly authorized representative, the means, facilities and~~
10 ~~opportunity for the examination. Willful refusal to cooperate~~
11 ~~with or permit an examination to the satisfaction of the~~
12 ~~department shall be sufficient grounds for the suspension or~~
13 ~~revocation of a taxpayer's license. In addition, a person who~~
14 ~~willfully refuses to cooperate with or permit an examination to~~
15 ~~the satisfaction of the department commits a misdemeanor and~~
16 ~~shall, upon conviction, be sentenced to pay costs of prosecution~~
17 ~~and a fine of \$500 or to imprisonment for not more than one~~
18 ~~year, or both, at the discretion of the court.~~

19 ~~(c) Records; dealer or manufacturer. A dealer or~~
20 ~~manufacturer shall keep and maintain for a period of four years~~
21 ~~records in the form prescribed by the department. The records~~
22 ~~shall be maintained at the location for which the license is~~
23 ~~issued.~~

24 ~~(d) Reports. A dealer or manufacturer shall file reports at~~
25 ~~times and in the form prescribed by the department.~~

26 ~~(e) Records; manufacturer or wholesaler. A manufacturer or~~
27 ~~wholesaler located or doing business in this Commonwealth who~~
28 ~~sells tobacco products to a wholesale license holder in this~~
29 ~~Commonwealth shall keep records showing:~~

30 ~~(1) The number and kind of tobacco products sold.~~

1 ~~(2) The date the tobacco products were sold.~~

2 ~~(3) The name and license number of the dealer the~~
3 ~~tobacco products were sold to.~~

4 ~~(4) The total weight of each of the tobacco products~~
5 ~~sold to the license holder.~~

6 ~~(5) The place where the tobacco products were shipped.~~

7 ~~(6) The name of the common carrier.~~

8 ~~(f) Manufacturer or wholesaler. A manufacturer or~~
9 ~~wholesaler shall file with the department, on or before the 20th~~
10 ~~of each month, a report showing the information listed in~~
11 ~~subsection (e) for the previous month.~~

12 ~~Section 1215 A. Other violations; peace officers; fines.~~

13 ~~Sections 1278, 1279, 1280 and 1291 are incorporated by~~
14 ~~reference into and shall apply to the tax imposed by this~~
15 ~~article.~~

16 ~~Section 1216 A. (Reserved).~~

17 ~~Section 1217 A. (Reserved).~~

18 ~~Section 1218 A. (Reserved).~~

19 ~~Section 1219 A. Records of shipments and receipts of tobacco~~
20 ~~products required.~~

21 ~~The department may, in its discretion, require reports from~~
22 ~~any common or contract carrier who transports tobacco products~~
23 ~~to any point or points within this Commonwealth, and from any~~
24 ~~bonded warehouseman or bailee who has in the possession of the~~
25 ~~warehouseman or bailee any tobacco products. The reports shall~~
26 ~~contain the information concerning shipments of tobacco products~~
27 ~~that the department determines to be necessary for the~~
28 ~~administration of this article. All common and contract~~
29 ~~carriers, bailees and warehousemen shall permit the examination~~
30 ~~by the department or its authorized agents of any records~~

1 ~~relating to the shipment or receipt of tobacco products.~~

2 ~~Section 1220 A. Licensing of dealers and manufacturers.~~

3 ~~(a) Prohibition. No person, unless all sales of tobacco~~
4 ~~products are exempt from Pennsylvania tobacco products tax,~~
5 ~~shall sell, transfer or deliver any tobacco products in this~~
6 ~~Commonwealth without first obtaining the proper license provided~~
7 ~~for in this article.~~

8 ~~(b) Application. An applicant for a dealer's or~~
9 ~~manufacturer's license shall complete and file an application~~
10 ~~with the department. The application shall be in the form and~~
11 ~~contain information prescribed by the department and shall set~~
12 ~~forth truthfully and accurately the information desired by the~~
13 ~~department. If the application is approved, the department shall~~
14 ~~license the dealer or manufacturer for a period of one year and~~
15 ~~the license may be renewed annually thereafter.~~

16 ~~Section 1221 A. Licensing of manufacturers.~~

17 ~~Any manufacturer doing business within this Commonwealth~~
18 ~~shall first obtain a license to sell tobacco products by~~
19 ~~submitting an application to the department containing the~~
20 ~~information requested by the department and designating a~~
21 ~~process agent. If a manufacturer designates no process agent,~~
22 ~~the manufacturer shall be deemed to have made the Secretary of~~
23 ~~State its agent for the service of process in this Commonwealth.~~

24 ~~Section 1222 A. Licensing of wholesalers.~~

25 ~~(a) Requirements. Applicants for a wholesale license or~~
26 ~~renewal of that license shall meet the following requirements:~~

27 ~~(1) The premises on which the applicant proposes to~~
28 ~~conduct business are adequate to protect the revenue.~~

29 ~~(2) The applicant is a person of reasonable financial~~
30 ~~stability and reasonable business experience.~~

1 ~~(3) The applicant, or any shareholder controlling more~~
2 ~~than 10% of the stock if the applicant is a corporation or~~
3 ~~any officer or director if the applicant is a corporation,~~
4 ~~shall not have been convicted of any crime involving moral~~
5 ~~turpitude.~~

6 ~~(4) The applicant shall not have failed to disclose any~~
7 ~~material information required by the department, including~~
8 ~~information that the applicant has complied with this article~~
9 ~~by providing a signed statement under penalty of perjury.~~

10 ~~(5) The applicant shall not have made any material false~~
11 ~~statement in the application.~~

12 ~~(6) The applicant shall not have violated any provision~~
13 ~~of this article.~~

14 ~~(7) The applicant shall have filed all required State~~
15 ~~tax reports and paid any State taxes not subject to a timely~~
16 ~~perfected administrative or judicial appeal or subject to a~~
17 ~~duly authorized deferred payment plan.~~

18 ~~(b) Multiple locations. The wholesale license shall be~~
19 ~~valid for one specific location only. Wholesalers with more than~~
20 ~~one location shall obtain a license for each location.~~

21 ~~Section 1223 A. Licensing of retailers.~~

22 ~~Applicants for retail license or renewal of that license~~
23 ~~shall meet the following requirements:~~

24 ~~(1) The premises in which the applicant proposes to~~
25 ~~conduct business are adequate to protect the revenues.~~

26 ~~(2) The applicant shall not have failed to disclose any~~
27 ~~material information required by the department.~~

28 ~~(3) The applicant shall not have any material false~~
29 ~~statement in the application.~~

30 ~~(4) The applicant shall not have violated any provision~~

1 ~~of this article.~~

2 ~~(5) The applicant shall have filed all required State~~
3 ~~tax reports and paid any State taxes not subject to a timely~~
4 ~~perfected administrative or judicial appeal or subject to a~~
5 ~~duly authorized deferred payment plan.~~

6 ~~Section 1224 A. License for tobacco products vending machines.~~

7 ~~Each tobacco products vending machine shall have a current~~
8 ~~retail license which shall be conspicuously and visibly placed~~
9 ~~on the machine. There shall be conspicuously and visibly placed~~
10 ~~on every tobacco products vending machine the name and address~~
11 ~~of the owner and the name and address of the operator.~~

12 ~~Section 1225 A. License fees and issuance and display of~~
13 ~~license.~~

14 ~~(a) Requirements. At the time of making any application or~~
15 ~~license renewal application:~~

16 ~~(1) An applicant for a tobacco products manufacturers~~
17 ~~license shall pay the department a license fee of \$1,500.~~

18 ~~(2) An applicant for a wholesale tobacco products~~
19 ~~dealer's license shall pay to the department a license fee of~~
20 ~~\$1,500.~~

21 ~~(3) An applicant for a retail tobacco products dealer's~~
22 ~~license shall pay to the department a license fee of \$25.~~

23 ~~(4) An applicant for a vending machine tobacco products~~
24 ~~dealer's license shall pay to the department a license fee of~~
25 ~~\$25.~~

26 ~~(b) Proration. Fees shall not be prorated.~~

27 ~~(c) Issuance and display. On approval of the application~~
28 ~~and payment of the fees, the department shall issue the proper~~
29 ~~license which must be conspicuously displayed at the location~~
30 ~~for which it has been issued.~~

1 ~~Section 1226 A. Electronic filing.~~

2 ~~The department may at its discretion require that any or all~~
3 ~~returns, reports or registrations that are required to be filed~~
4 ~~under this article be filed electronically. Failure to~~
5 ~~electronically file any return, report, registration or other~~
6 ~~information the department may direct to be filed electronically~~
7 ~~shall subject the taxpayer to a penalty of 5% of the tax due on~~
8 ~~the return, up to a maximum of \$1,000, but not less than \$10.~~
9 ~~This penalty shall be assessed at any time and collected in the~~
10 ~~manner provided in this article. This penalty shall be in~~
11 ~~addition to any civil penalty imposed in this article for~~
12 ~~failure to furnish information or file a return. The criminal~~
13 ~~penalty for failure to file a return electronically shall be the~~
14 ~~same as the criminal penalty for failure to furnish information~~
15 ~~or file a return under this article.~~

16 ~~Section 1227 A. Expiration of license.~~

17 ~~(a) Expiration. A license shall expire on the last day of~~
18 ~~June next succeeding the date upon which it was issued unless~~
19 ~~the department at an earlier date suspends, surrenders or~~
20 ~~revokes the license.~~

21 ~~(b) Violation. After the expiration date of the license or~~
22 ~~sooner if the license is suspended, surrendered or revoked, it~~
23 ~~shall be illegal for any dealer to engage directly or indirectly~~
24 ~~in the business heretofore conducted by the dealer for which the~~
25 ~~license was issued. Any licensee who shall, after the expiration~~
26 ~~date of the license, engage in the business theretofore~~
27 ~~conducted by the licensee either by way of purchase, sale,~~
28 ~~distribution or in any other manner directly or indirectly~~
29 ~~engaged in the business of dealing with tobacco products for~~
30 ~~profit shall be in violation of this article and be subject to~~

1 ~~the penalties provided in this article.~~

2 ~~Section 1228 A. Administration powers and duties.~~

3 ~~(a) Department. The administration of this article is~~
4 ~~hereby vested in the department. The department shall adopt~~
5 ~~rules and regulations for the enforcement of this article. The~~
6 ~~department may impose fees as may be necessary to cover the~~
7 ~~costs incurred in administering this section.~~

8 ~~(b) Joint administration. The department is authorized to~~
9 ~~jointly administer this article with other provisions of this~~
10 ~~act, including joint reporting of information, forms, returns,~~
11 ~~statements, documents or other information submitted to the~~
12 ~~department.~~

13 ~~Section 1229 A. Sales without license.~~

14 ~~(a) Penalty. Any person who shall, without being the holder~~
15 ~~of a proper unexpired dealer's license, engage in purchasing,~~
16 ~~selling, distributing or in any other manner directly or~~
17 ~~indirectly engaging in the business of dealing with tobacco~~
18 ~~products for profit commits a summary offense and shall, upon~~
19 ~~conviction, be sentenced to pay costs of prosecution and a fine~~
20 ~~of not less than \$250 nor more than \$1,000, or to imprisonment~~
21 ~~for not more than 30 days, or both, at the discretion of the~~
22 ~~court.~~

23 ~~(b) Prima facie evidence. Open display of tobacco products~~
24 ~~in any manner shall be prima facie evidence that the person~~
25 ~~displaying such tobacco products is directly or indirectly~~
26 ~~engaging in the business of dealing with tobacco products for~~
27 ~~profit.~~

28 ~~Section 1230 A. Violations and penalties.~~

29 ~~(a) Suspension. The license of any person who violates this~~
30 ~~article may be suspended after due notice and opportunity for a~~

1 ~~hearing for a period of not less than five days or more than 30-~~
2 ~~days for a first violation and shall be revoked or suspended for~~
3 ~~any subsequent violation.~~

4 ~~(b) Fine. In addition to the provisions of subsection (a),~~
5 ~~upon adjudication of a first violation, the person shall be~~
6 ~~fined not less than \$2,500 nor more than \$5,000. For subsequent~~
7 ~~violations, the person shall, upon adjudication thereof, be~~
8 ~~fined not less than \$5,000 nor more than \$15,000.~~

9 ~~(c) Civil penalty. A person who violates section 1214 A~~
10 ~~(b), (c), or (d), or 1225 A(c), shall be subject to a civil~~
11 ~~penalty not to exceed \$300 per violation but shall not be~~
12 ~~subject to subsections (a) and (b).~~

13 ~~Section 1231 A. Property rights.~~

14 ~~(a) Incorporation. Subject to subsection (b), section 1285-~~
15 ~~is incorporated by reference into and shall apply to this~~
16 ~~article.~~

17 ~~(b) Alterations.~~

18 ~~(1) References in section 1285 to cigarettes shall apply~~
19 ~~to tobacco products in this article.~~

20 ~~(2) References in section 1285 to 2,000 or more~~
21 ~~unstamped cigarettes shall apply to tobacco products worth at~~
22 ~~least \$500 in this article.~~

23 ~~(3) References in section 1285 to more than 200~~
24 ~~unstamped cigarettes shall apply to tobacco products worth at~~
25 ~~least \$50 in this article.~~

26 ~~Section 1232 A. Sample of tobacco products.~~

27 ~~(a) Samples. The department shall, by regulation, govern~~
28 ~~the receipt, distribution of and payment of tax on sample~~
29 ~~tobacco products issued for free distribution.~~

30 ~~(b) Construction. Nothing in this article or the~~

~~1 regulations promulgated under this article shall prohibit the
2 bringing into this Commonwealth by a manufacturer samples of
3 tobacco products to be delivered and distributed only through
4 licensed dealers or the manufacturers or their sales
5 representatives. The tax shall be paid by the manufacturer
6 provided all such packs bear the legend "all applicable State
7 taxes have been paid." Under no circumstances shall any untaxed
8 tobacco products be sold within this Commonwealth.~~

~~9 Section 1233 A. Labeling and packaging.~~

~~10 It shall be unlawful to knowingly possess, sell, give,
11 transfer or deliver to any person, any tobacco product where the
12 packaging of which has been modified or altered by a person
13 other than the original manufacturer. Modification or alteration
14 shall include the placement of a sticker, writing or mark to
15 cover information on the packages. For purposes of this section,
16 a tobacco product package shall not be construed to have been
17 modified or altered by a person other than the manufacturer if
18 the most recent modification or alteration was made by the
19 manufacturer or person authorized by the manufacturer and
20 approved by the department.~~

~~21 Section 1234 A. Information exchange.~~

~~22 The department is authorized to exchange information with any
23 other Federal, State or local enforcement agency for purposes of
24 enforcing this article.~~

~~25 ARTICLE XVI~~

~~26 SEVERANCE TAX~~

~~27 Section 1601. Scope.~~

~~28 This article relates to the taxation of natural gas
29 severance.~~

~~30 Section 1602. Definitions.~~

1 ~~The following words and phrases when used in this article~~
2 ~~shall have the meanings given to them in this section unless the~~
3 ~~context clearly indicates otherwise:~~

4 ~~"Accredited laboratory." A facility engaged in the testing~~
5 ~~and calibration of scientific measurement devices and certified~~
6 ~~by the Department of Environmental Protection as having met the~~
7 ~~department's standards for accreditation.~~

8 ~~"Association." A partnership, limited partnership or any~~
9 ~~other form of unincorporated enterprise owned or conducted by~~
10 ~~two or more persons.~~

11 ~~"Corporation." A corporation, joint stock association,~~
12 ~~limited liability company, business trust or any other~~
13 ~~incorporated enterprise organized under the laws of this~~
14 ~~Commonwealth, the United States or any other state, territory or~~
15 ~~foreign country or dependency.~~

16 ~~"Department." The Department of Revenue of the Commonwealth.~~

17 ~~"Fund." The Natural Gas Severance Tax Fund established under~~
18 ~~section 1627.~~

19 ~~"Gross value." The volume weighted average market price for~~
20 ~~all arms length transactions that a producer receives at the~~
21 ~~sales meter for natural gas during a reporting period.~~

22 ~~"Meter." A device to measure the passage of volumes of gases~~
23 ~~or liquids past a certain point.~~

24 ~~"Municipality." A city, borough, incorporated town or a~~
25 ~~township.~~

26 ~~"Natural gas." A fossil fuel consisting of a mixture of~~
27 ~~hydrocarbon gases, primarily methane, possibly including ethane,~~
28 ~~propane, butane, pentane, carbon dioxide, oxygen, nitrogen and~~
29 ~~hydrogen sulfide and other gas species. The term includes~~
30 ~~natural gas from oil fields known as associated gas or casing~~

1 ~~head gas, natural gas fields known as nonassociated gas, coal~~
2 ~~beds, shale beds and other formations.~~

3 ~~"Nonproducing site." A point of severance that is not~~
4 ~~capable of producing natural gas in paying quantities.~~

5 ~~"Paying quantities." Profit to the producer, however small,~~
6 ~~over the producer's current operating expenses.~~

7 ~~"Person." A natural person or a corporation, fiduciary,~~
8 ~~association or other entity, including the Commonwealth, its~~
9 ~~political subdivisions, instrumentalities and authorities. When~~
10 ~~the term is used in a clause prescribing and imposing a penalty~~
11 ~~or imposing a fine or imprisonment, or both, the term shall~~
12 ~~include the members, as applied to an association, and the~~
13 ~~officers, as applied to a corporation.~~

14 ~~"Producer." A person who engages or continues within this~~
15 ~~Commonwealth in the business of severing natural gas for sale,~~
16 ~~profit or commercial use. The term does not include a person who~~
17 ~~severs natural gas from a storage field.~~

18 ~~"Producing site." A point of severance capable of producing~~
19 ~~natural gas in paying quantities.~~

20 ~~"Reporting period." A calendar month in which natural gas is~~
21 ~~severed.~~

22 ~~"Sales meter." A meter at the point where natural gas is~~
23 ~~sold or transported to a purchaser or market.~~

24 ~~"Sever," "severing" or "severance." The extraction or other~~
25 ~~removal of natural gas from the soil or water of this~~
26 ~~Commonwealth.~~

27 ~~"Storage field." A natural formation or other site that is~~
28 ~~used to store natural gas that did not originate from and has~~
29 ~~been injected into the formation or site.~~

30 ~~"Stripper well." A producing site or a nonproducing site~~

1 ~~that is not capable of producing and does not produce more than~~
2 ~~60,000 cubic feet of natural gas per day.~~

3 ~~"Tax." The tax imposed under this article.~~

4 ~~"Taxpayer." A person subject to the tax imposed by this~~
5 ~~article.~~

6 ~~"Unit." A thousand cubic feet of natural gas measured at the~~
7 ~~wellhead at a temperature of 60 degrees Fahrenheit and an~~
8 ~~absolute pressure of 14.73 pounds per square inch in accordance~~
9 ~~with American Gas Association Standards and according to Boyle's~~
10 ~~law for the measurement of gas under varying pressures with~~
11 ~~deviations as follows:~~

12 ~~(1) The average absolute atmospheric pressure shall be~~
13 ~~assumed to be 14.4 pounds to the square inch, regardless of~~
14 ~~elevation or location of point of delivery above sea level or~~
15 ~~variations in atmospheric pressure from time to time.~~

16 ~~(2) The temperature of the gas passing the meters shall~~
17 ~~be determined by the continuous use of a recording~~
18 ~~thermometer installed to properly record the temperature of~~
19 ~~gas flowing through the meters. The arithmetic average of the~~
20 ~~temperature recorded each 24 hour day shall be used in~~
21 ~~computing gas volumes. If a recording thermometer is not~~
22 ~~installed, or if installed and not operating properly, an~~
23 ~~average flowing temperature of 60 degrees Fahrenheit shall be~~
24 ~~used in computing gas volume.~~

25 ~~(3) The specific gravity of the gas shall be determined~~
26 ~~annually by tests made by the use of an Edwards or Acme~~
27 ~~gravity balance, or at intervals as found necessary in~~
28 ~~practice. Specific gravity determinations shall be used in~~
29 ~~computing gas volumes.~~

30 ~~(4) The deviation of the natural gas from Boyle's Law~~

1 ~~shall be determined by annual tests or at other shorter~~
2 ~~intervals as found necessary in practice. The apparatus and~~
3 ~~method used in making the test shall be in accordance with~~
4 ~~recommendations of the National Bureau of Standards or Report~~
5 ~~No. 3 of the Gas Measurement Committee of the American Gas~~
6 ~~Association, or amendments to the Standards or Report. The~~
7 ~~results of the tests shall be used in computing the volume of~~
8 ~~gas delivered under this article.~~

9 ~~"Wellhead meter." A meter placed at a producing or~~
10 ~~nonproducing site to measure the volume of natural gas severed~~
11 ~~for which a wellhead meter certification has been issued.~~

12 ~~"Wellhead meter certification." A report issued by an~~
13 ~~accredited laboratory certifying the accuracy of a wellhead~~
14 ~~meter.~~

15 ~~Section 1603. Imposition of tax.~~

16 ~~(a) Establishment. There is levied a natural gas severance~~
17 ~~tax on every producer.~~

18 ~~(b) Rate. The tax imposed in subsection (a) shall be 5% of~~
19 ~~the gross value of units severed at the wellhead during a~~
20 ~~reporting period, plus 4.7 cents per unit severed, but shall not~~
21 ~~be imposed on units severed from a stripper well.~~

22 ~~Section 1604. Return and payment.~~

23 ~~(a) Requirement. Every producer is required to file a~~
24 ~~return with the department, on a form to be prescribed by the~~
25 ~~department, reporting all severed natural gas per reporting~~
26 ~~period and the tax due under section 1603.~~

27 ~~(b) Filing. The return required by subsection (a) shall be~~
28 ~~filed with the department within 15 days following the end of~~
29 ~~the second calendar month after a reporting period.~~

30 ~~(c) Deadline. The tax imposed under section 1603 is due on~~

~~1 the day the return is required to be filed and becomes~~
~~2 delinquent if not remitted to the department by that date.~~
~~3 Section 1605. Natural gas severance tax registration.~~

~~4 (a) Application. Before a producer severs natural gas in~~
~~5 this Commonwealth, the producer shall apply to the department~~
~~6 for a natural gas severance tax registration certificate.~~

~~7 (a.1) Application fee. The department may charge an~~
~~8 application fee to cover the administrative costs associated~~
~~9 with the application and registration process. If the department~~
~~10 charges an application fee, the department shall not issue a~~
~~11 registration certificate until the producer has paid the~~
~~12 application fee.~~

~~13 (a.2) Declaration. The producer shall include in its~~
~~14 application a declaration of all sites in this Commonwealth used~~
~~15 by the producer for the severance of natural gas. The~~
~~16 declaration is to include all producing sites and nonproducing~~
~~17 sites as well as wellhead meter certification for each. The~~
~~18 producer is required to update the declaration when the producer~~
~~19 adds or removes a producing site or nonproducing site in this~~
~~20 Commonwealth or when there is a change in the status of a~~
~~21 producing site or nonproducing site or when the producer uses a~~
~~22 different accredited laboratory to certify the accuracy of the~~
~~23 producer's wellhead meters. The producer shall update the~~
~~24 declaration within 30 days after a calendar month in which a~~
~~25 change to the declaration occurs.~~

~~26 (b) Issuance. Except as provided in subsection (c), after~~
~~27 the receipt of an application, the department shall issue a~~
~~28 registration certificate under subsection (a). The registration~~
~~29 certificate shall be nonassignable. All registrants shall be~~
~~30 required to renew their registration certificates and wellhead~~

1 ~~meter certifications on a staggered renewal system established~~
2 ~~by the department. After the initial staggered renewal period, a~~
3 ~~registration certificate or a wellhead meter certification~~
4 ~~issued shall be valid for a period of five years.~~

5 ~~(c) Refusal, suspension or revocation. The department may~~
6 ~~refuse to issue, suspend or revoke a registration certificate if~~
7 ~~the applicant or registrant has not filed required State tax~~
8 ~~reports and paid State taxes not subject to a timely perfected~~
9 ~~administrative or judicial appeal or subject to a duly~~
10 ~~authorized deferred payment plan. The department shall notify~~
11 ~~the applicant or registrant of any refusal, suspension or~~
12 ~~revocation. The notice shall contain a statement that the~~
13 ~~refusal, suspension or revocation may be made public. The notice~~
14 ~~shall be made by first class mail. An applicant or registrant~~
15 ~~aggrieved by the determination of the department may file an~~
16 ~~appeal under the provisions for administrative appeals in this~~
17 ~~act. In the case of a suspension or revocation which is~~
18 ~~appealed, the registration certificate shall remain valid~~
19 ~~pending a final outcome of the appeals process. Notwithstanding~~
20 ~~sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 or any~~
21 ~~other provision of law, if no appeal is taken or if an appeal is~~
22 ~~taken and denied at the conclusion of the appeal process the~~
23 ~~department may disclose, by publication or otherwise, the~~
24 ~~identity of a producer and the fact that the producer's~~
25 ~~registration certificate has been refused, suspended or revoked~~
26 ~~under this subsection. Disclosure may include the basis for~~
27 ~~refusal, suspension or revocation.~~

28 ~~(d) Violation. A person severing natural gas in this~~
29 ~~Commonwealth without holding a valid registration certificate~~
30 ~~under subsection (b) shall be guilty of a summary offense and~~

1 ~~shall, upon conviction, be sentenced to pay a fine of not less~~
2 ~~than \$300 nor more than \$1,500. In the event the person~~
3 ~~convicted defaults, he shall be sentenced to imprisonment for~~
4 ~~not less than five days nor more than 30 days. The penalties~~
5 ~~imposed by this subsection shall be in addition to any other~~
6 ~~penalties imposed by this article. For purposes of this~~
7 ~~subsection, the severing of natural gas during any calendar day~~
8 ~~shall constitute a separate violation. The Secretary of Revenue~~
9 ~~may designate employees of the department to enforce the~~
10 ~~provisions of this subsection. The employees shall exhibit proof~~
11 ~~of and be within the scope of the designation when instituting~~
12 ~~proceedings as provided by the Pennsylvania Rules of Criminal~~
13 ~~Procedure.~~

14 ~~(c) Failure to obtain registration certificate. Failure to~~
15 ~~obtain or hold a valid registration certificate does not relieve~~
16 ~~a person from liability for the tax imposed by this article.~~
17 ~~Section 1605.1. Meters.~~

18 ~~A producer shall provide for and maintain a discrete wellhead~~
19 ~~meter and a discrete sales meter. A producer shall ensure that~~
20 ~~the meters are maintained according to industry standards. Any~~
21 ~~wellhead meter installed after the effective date of this~~
22 ~~section shall be a digital meter.~~

23 ~~Section 1606. Assessments.~~

24 ~~(a) Authorization and requirement. The department is~~
25 ~~authorized and shall make the inquiries, determinations and~~
26 ~~assessments of the natural gas severance tax, including~~
27 ~~interest, additions and penalties imposed under this article.~~

28 ~~(b) Notice. The notice of assessment and demand for payment~~
29 ~~shall be mailed to the taxpayer. The notice shall set forth the~~
30 ~~basis of the assessment. The department shall send the notice of~~

1 ~~assessment to the taxpayer at its registered address via~~
2 ~~certified mail if the assessment increases the taxpayer's tax~~
3 ~~liability by \$300. Otherwise, the notice of assessment may be~~
4 ~~sent via regular mail.~~

5 ~~Section 1607. Time for assessment.~~

6 ~~(a) Requirement. An assessment as provided under section~~
7 ~~1606 shall be made within three years after the date when the~~
8 ~~return provided for by section 1604 is filed or the end of the~~
9 ~~year in which the tax liability arises, whichever shall occur~~
10 ~~last. For the purposes of this subsection and subsection (b), a~~
11 ~~return filed before the last day prescribed for the filing~~
12 ~~period shall be considered as filed on the last day.~~

13 ~~(b) Exception. If the taxpayer underpays the correct amount~~
14 ~~of the tax due by 25% or more, the tax may be assessed within~~
15 ~~six years after the date the return was filed.~~

16 ~~(c) Intent to evade. Where no return is filed or where the~~
17 ~~taxpayer files a false or fraudulent return with intent to evade~~
18 ~~the tax imposed by this article, the assessment may be made at~~
19 ~~any time.~~

20 ~~(d) Erroneous credit or refund. Within three years of the~~
21 ~~granting of a refund or credit or within the period in which an~~
22 ~~assessment or reassessment may have been issued by the~~
23 ~~department for the taxable period for which the refund was~~
24 ~~granted, whichever period shall last occur, the department may~~
25 ~~issue an assessment to recover a refund or credit made or~~
26 ~~allowed erroneously.~~

27 ~~Section 1608. Extension of limitation period.~~

28 ~~Notwithstanding the provisions of this article, the~~
29 ~~assessment period may be extended in the event a taxpayer has~~
30 ~~provided written consent before the expiration of the period~~

~~1 provided in section 1607 for a tax assessment. The amount of tax
2 due may be assessed at any time within the extended period. The
3 period may be extended further by subsequent written consents
4 made before the expiration of the extended period.~~

~~5 Section 1609. Reassessments.~~

~~6 A taxpayer against whom an assessment is made may petition
7 the department for a reassessment under Article XXVII.~~

~~8 Section 1610. Interest.~~

~~9 The department shall assess interest on any delinquent tax at
10 the rate prescribed under section 806 of the act of April 9,
11 1929 (P.L.343, No. 176), known as The Fiscal Code.~~

~~12 Section 1611. Penalties.~~

~~13 The department shall enforce the following penalties:~~

~~14 (1) A penalty against a valid producer without a natural
15 gas severance tax registration certificate. The penalty shall
16 be \$1 for every unit severed without a valid registration
17 certificate. The department may assess this penalty
18 separately from or in conjunction with any assessment of the
19 natural gas severance tax.~~

~~20 (2) A penalty against a producer for failure to timely
21 file a return as required under section 1604. The penalty
22 shall be 5% of the tax liability to be reported on the return
23 for each day beyond the due date that the return is not
24 filed.~~

~~25 (3) In addition to the penalty under paragraph (2), a
26 penalty against the producer for a willful failure to timely
27 file a return. The penalty shall be 200% of the tax liability
28 required to be reported on the return.~~

~~29 (4) A penalty against a producer for failure to timely
30 pay the tax as required by section 1604(c). The penalty shall~~

1 ~~be 5% of the amount of tax due for each day beyond the~~
2 ~~payment date that the tax is not paid.~~

3 ~~Section 1612. Criminal acts.~~

4 ~~(a) Fraudulent return. Any person with intent to defraud~~
5 ~~the Commonwealth, who willfully makes or causes to be made a~~
6 ~~return required by this article which is false, is guilty of a~~
7 ~~misdemeanor and shall, upon conviction, be sentenced to pay a~~
8 ~~fine of not more than \$2,000 or to imprisonment for not more~~
9 ~~than three years, or both.~~

10 ~~(b) Other crimes.~~

11 ~~(1) Except as otherwise provided by subsection (a), a~~
12 ~~person is guilty of a misdemeanor and shall, upon conviction,~~
13 ~~be sentenced to pay a fine of not more than \$1,000 and costs~~
14 ~~of prosecution or to imprisonment for not more than one year,~~
15 ~~or both, for any of the following:~~

16 ~~(i) Willfully failing to timely remit the tax to the~~
17 ~~department.~~

18 ~~(ii) Willfully failing or neglecting to timely file~~
19 ~~a return or report required by this article.~~

20 ~~(iii) Refusing to timely pay a tax, penalty or~~
21 ~~interest imposed or provided for by this article.~~

22 ~~(iv) Willfully failing to preserve its books, papers~~
23 ~~and records as directed by the department.~~

24 ~~(v) Refusing to permit the department or its~~
25 ~~authorized agents to examine its books, records or~~
26 ~~papers.~~

27 ~~(vi) Knowingly make any incomplete, false or~~
28 ~~fraudulent return or report.~~

29 ~~(vii) Preventing or attempting to prevent the full~~
30 ~~disclosure of the amount of natural gas severance tax~~

1 ~~due.~~

2 ~~(viii) Providing any person with a false statement~~
3 ~~as to the payment of natural gas severance tax with~~
4 ~~respect to any pertinent facts.~~

5 ~~(ix) Making, uttering or issuing a false or~~
6 ~~fraudulent statement.~~

7 ~~(2) The penalties imposed by this section shall be in~~
8 ~~addition to other penalties imposed by this article.~~

9 ~~Section 1613. Abatement of additions or penalties.~~

10 ~~Upon the filing of a petition for reassessment or a petition~~
11 ~~for refund by a taxpayer as provided under this article,~~
12 ~~additions or penalties imposed upon the taxpayer by this article~~
13 ~~may be waived or abated in whole or in part where the petitioner~~
14 ~~establishes that he acted in good faith, without negligence and~~
15 ~~with no intent to defraud.~~

16 ~~Section 1614. Bulk and auction sales.~~

17 ~~A person that sells or causes to be sold at auction, or that~~
18 ~~sells or transfers in bulk, 51% or more of a stock of goods,~~
19 ~~wares or merchandise of any kind, fixtures, machinery,~~
20 ~~equipment, buildings or real estate involved in a business for~~
21 ~~which the person holds a registration certificate or is required~~
22 ~~to obtain a registration certificate under the provisions of~~
23 ~~this article shall be subject to the provisions of section 1403~~
24 ~~of the act of April 9, 1929 (P.L.343, No.176), known as The~~
25 ~~Fiscal Code.~~

26 ~~Section 1615. Collection upon failure to request reassessment,~~
27 ~~review or appeal.~~

28 ~~(a) Power of department. The department may collect the~~
29 ~~natural gas severance tax:~~

30 ~~(1) If an assessment of the tax is not paid within 30~~

~~1 days after notice to the taxpayer when no petition for
2 reassessment has been filed.~~

~~3 (2) Within 60 days of the reassessment, if no petition
4 for review has been filed.~~

~~5 (3) If no appeal has been made, within 30 days of:~~

~~6 (i) the Board of Finance and Revenue's decision of a
7 petition for review; or~~

~~8 (ii) the expiration of the board's time for acting
9 upon the petition.~~

~~10 (4) In all cases of judicial sales, receiverships,
11 assignments or bankruptcies.~~

~~12 (b) Prohibition. In a case for the collection of taxes
13 under subsection (a), the taxpayer against whom they were
14 assessed shall not be permitted to set up a ground of defense
15 that might have been determined by the department, the Board of
16 Finance and Revenue or the courts, provided that the defense of
17 failure of the department to mail notice of assessment or
18 reassessment to the taxpayer and the defense of payment of
19 assessment or reassessment may be raised in proceedings for
20 collection by a motion to stay the proceedings.~~

~~21 Section 1616. Tax liens.~~

~~22 (a) Lien imposed. If any taxpayer neglects or refuses to
23 pay the natural gas severance tax for which the taxpayer is
24 liable under this article after demand, the amount, including
25 interest, addition or penalty, together with additional costs
26 that may accrue, shall be a lien in favor of the Commonwealth
27 upon the real and personal property of the taxpayer but only
28 after the same has been entered and docketed of record by the
29 prothonotary of the county where the property is situated. The
30 department may, at any time, transmit to the prothonotaries of~~

1 ~~the respective counties certified copies of all liens imposed by~~
2 ~~this section. It shall be the duty of the prothonotary receiving~~
3 ~~the lien to enter and docket the same of record to the office of~~
4 ~~the prothonotary. The lien shall be indexed as judgments are now~~
5 ~~indexed. No prothonotary shall require as a condition precedent~~
6 ~~to the entry of the lien the payment of costs incidental to its~~
7 ~~entry.~~

8 ~~(b) Priority of lien and effect on judicial sale. Except~~
9 ~~for the costs of the sale and the writ upon which the sale was~~
10 ~~made and real estate taxes and municipal claims against the~~
11 ~~property, a lien imposed under this section shall have priority~~
12 ~~from the date of its recording and shall be fully paid and~~
13 ~~satisfied out of the proceeds of any judicial sale of property~~
14 ~~subject to the lien, before any other obligation, judgment,~~
15 ~~claim, lien or estate to which the property may subsequently~~
16 ~~become subject, but shall be subordinate to mortgages and other~~
17 ~~liens existing and duly recorded or entered of record prior to~~
18 ~~the recording of the lien.~~

19 ~~(c) No discharge by sale on junior lien. In the case of a~~
20 ~~judicial sale of property subject to a lien imposed under this~~
21 ~~section, upon a lien or claim over which the lien imposed under~~
22 ~~this section has priority, the sale shall discharge the lien~~
23 ~~imposed under this section to the extent only that the proceeds~~
24 ~~are applied to its payment, and the lien shall continue in full~~
25 ~~force and effect as to the balance remaining unpaid. There shall~~
26 ~~be no inquisition or condemnation upon any judicial sale of real~~
27 ~~estate made by the Commonwealth under the provisions of this~~
28 ~~article. The lien shall continue as provided in the act of April~~
29 ~~9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ~~
30 ~~of execution may directly issue upon the lien without the~~

1 ~~issuance and prosecution to judgment of a writ of scire facias,~~
2 ~~provided that not less than ten days before issuance of any~~
3 ~~execution on the lien, notice of the filing and the effect of~~
4 ~~the lien shall be sent by registered mail to the taxpayer at its~~
5 ~~last known post office address, provided further that the lien~~
6 ~~shall have no effect upon any stock of goods, wares or~~
7 ~~merchandise regularly sold or leased in the ordinary course of~~
8 ~~business by the taxpayer against whom the lien has been entered,~~
9 ~~unless and until a writ of execution has been issued and a levy~~
10 ~~made upon said stock of goods, wares and merchandise.~~

11 ~~(d) Duty of prothonotary. Any willful failure of any~~
12 ~~prothonotary to carry out any duty imposed upon him by this~~
13 ~~section shall be a misdemeanor. Upon conviction, he shall be~~
14 ~~sentenced to pay a fine of not more than \$1,000 and costs of~~
15 ~~prosecution or to imprisonment for not more than one year, or~~
16 ~~both.~~

17 ~~(e) Priority. Except as provided in this article, the~~
18 ~~distribution, voluntary or compulsory, in receivership,~~
19 ~~bankruptcy or otherwise of the property or estate of any person,~~
20 ~~all taxes imposed by this article which are due and unpaid and~~
21 ~~are not collectible under the provisions of section 225, shall~~
22 ~~be paid from the first money available for distribution in~~
23 ~~priority to all other claims and liens, except as the laws of~~
24 ~~the United States may give priority to a claim to the Federal~~
25 ~~Government. A person charged with the administration or~~
26 ~~distribution of the property or estate who violates the~~
27 ~~provisions of this section shall be personally liable for the~~
28 ~~taxes imposed by this article which are accrued and unpaid and~~
29 ~~chargeable against the person whose property or estate is being~~
30 ~~administered or distributed.~~

1 ~~(f) Other remedies. Subject to the limitations contained in~~
2 ~~this article as to the assessment of taxes, nothing contained in~~
3 ~~this section shall be construed to restrict, prohibit or limit~~
4 ~~the use by the department in collecting taxes due and payable of~~
5 ~~another remedy or procedure available at law or equity for the~~
6 ~~collection of debts.~~

7 ~~Section 1617. Tax suit reciprocity.~~

8 ~~The courts of this Commonwealth shall recognize and enforce~~
9 ~~liabilities for natural gas severance taxes lawfully imposed by~~
10 ~~any other state, provided that the other state recognizes and~~
11 ~~enforces the tax set forth in this article.~~

12 ~~Section 1618. Service.~~

13 ~~A producer is deemed to have appointed the Secretary of the~~
14 ~~Commonwealth its agent for the acceptance of service of process~~
15 ~~or notice in a proceeding for the enforcement of the civil~~
16 ~~provisions of this article and service made upon the Secretary~~
17 ~~of the Commonwealth as agent shall be of the same legal force~~
18 ~~and validity as if the service had been personally made upon the~~
19 ~~producer. Where service cannot be made upon the producer in the~~
20 ~~manner provided by other laws of this Commonwealth relating to~~
21 ~~service of process, service may be made upon the Secretary of~~
22 ~~the Commonwealth. In that case, a copy of the process or notice~~
23 ~~shall be personally served upon any agent or representative of~~
24 ~~the producer who may be found within this Commonwealth or, where~~
25 ~~no agent or representative may be found, a copy of the process~~
26 ~~or notice shall be sent via registered mail to the producer at~~
27 ~~the last known address of its principal place of business, home~~
28 ~~office or residence.~~

29 ~~Section 1619. Refunds.~~

30 ~~Under Article XXVII, the department shall refund all taxes,~~

~~1 interest and penalties paid to the Commonwealth under the
2 provisions of this article to which the Commonwealth is not
3 rightfully entitled. The refunds shall be made to the person or
4 the person's heirs, successors, assigns or other personal
5 representatives who paid the tax, provided that no refund shall
6 be made under this section regarding a payment made by reason of
7 an assessment where a taxpayer has filed a petition for
8 reassessment under section 2702 to the extent the petition is
9 adverse to the taxpayer by a decision which is no longer subject
10 to further review or appeal. Nothing in this article shall
11 prohibit a taxpayer who has filed a timely petition for
12 reassessment from amending it to a petition for refund where the
13 petitioner paid the tax assessed.~~

~~14 Section 1620. Refund petition.~~

~~15 (a) General rule. Except as provided for in subsection (b),
16 the refund or credit of tax, interest or penalty provided for by
17 section 1619 shall be made only where the person who has paid
18 the tax files a petition for refund with the department under
19 Article XXVII, within the time limits of section 3003.1.~~

~~20 (b) Natural gas severance tax. A refund or credit of tax,
21 interest or penalty paid as a result of an assessment made by
22 the department under section 1605, shall be made only where the
23 person who has paid the tax files with the department a petition
24 for a refund with the department under Article XXVII within the
25 time limits of section 3003.1. The filing of a petition for
26 refund, under the provisions of this subsection, shall not
27 affect the abatement of interest, additions or penalties to
28 which the person may be entitled by reason of his payment of the
29 assessment.~~

~~30 Section 1621. Rules and regulations.~~

1 ~~The department is charged with the enforcement of the~~
2 ~~provisions of this article and is authorized and empowered to~~
3 ~~prescribe, adopt, promulgate and enforce rules and regulations~~
4 ~~not inconsistent with the provisions of this article relating to~~
5 ~~any matter or thing pertaining to the administration and~~
6 ~~enforcement of the provisions of this article and the collection~~
7 ~~of taxes, penalties and interest imposed by this article. The~~
8 ~~department may prescribe the extent, if any, to which any of the~~
9 ~~rules and regulations shall be applied without retroactive~~
10 ~~effect.~~

11 ~~Section 1622. Recordkeeping.~~

12 ~~(a) General rule. Every person liable for any tax imposed~~
13 ~~by this article, or for the collection of such tax, shall keep~~
14 ~~records, including those enumerated in subsection (b), render~~
15 ~~statements, make returns and comply with the rules and~~
16 ~~regulations as the department may prescribe regarding matters~~
17 ~~pertinent to the person's business. Whenever it is necessary,~~
18 ~~the department may require a person, by notice served upon the~~
19 ~~person or by regulations, to make returns, render statements or~~
20 ~~keep records as the department deems sufficient to show whether~~
21 ~~or not a person is liable to pay tax under this article.~~

22 ~~(a.1) Records. Records to be maintained are:~~

23 ~~(1) Wellhead meter and sales meter charts for each~~
24 ~~reporting period and the meter calibration and maintenance~~
25 ~~records. If turbine meters are in use, the maintenance~~
26 ~~records will be made available to the department upon~~
27 ~~request.~~

28 ~~(2) Records, statements and other instruments furnished~~
29 ~~to a producer by a person to whom the producer delivers for~~
30 ~~sale, transport or delivery of natural gas.~~

1 ~~(3) Records, statements and other instruments as the~~
2 ~~department may prescribe by regulation.~~

3 ~~(b) Records of nonresidents. A nonresident who does~~
4 ~~business in this Commonwealth as a producer shall keep adequate~~
5 ~~records of the business and of the tax due as a result. The~~
6 ~~records shall be retained within this Commonwealth unless~~
7 ~~retention outside this Commonwealth is authorized by the~~
8 ~~department. The department may require a taxpayer who desires to~~
9 ~~retain records outside this Commonwealth to assume reasonable~~
10 ~~out of State audit expenses.~~

11 ~~(c) Keeping of separate records. A producer who is engaged~~
12 ~~in another business or businesses which do not involve the~~
13 ~~severing of natural gas taxable under this article, shall keep~~
14 ~~separate books and records of the businesses so as to show the~~
15 ~~taxable severing of natural gas under this article separately~~
16 ~~from other business activities not taxable under this article.~~
17 ~~If any person fails to keep separate books and records, the~~
18 ~~person shall be liable for a penalty equaling 100% of tax due~~
19 ~~under this article for the period where separate records were~~
20 ~~not maintained.~~

21 ~~Section 1623. Examinations.~~

22 ~~The department or any of its authorized agents are authorized~~
23 ~~to examine the books, papers and records of any taxpayer in~~
24 ~~order to verify the accuracy and completeness of any return made~~
25 ~~or, if no return was made, to ascertain and assess the tax~~
26 ~~imposed by this article. The department may require the~~
27 ~~preservation of all books, papers and records for any period~~
28 ~~deemed proper by it but not to exceed three years from the end~~
29 ~~of the calendar year to which the records relate. Every taxpayer~~
30 ~~is required to give to the department or its agent the means,~~

1 ~~facilities and opportunity for examinations and investigation~~
2 ~~under this section. The department is further authorized to~~
3 ~~examine any person, under oath, concerning the taxable severing~~
4 ~~of natural gas by any taxpayer or concerning any other matter~~
5 ~~relating to the enforcement or administration of this article,~~
6 ~~and to this end may compel the production of books, papers and~~
7 ~~records and the attendance of all persons whether as parties or~~
8 ~~witnesses whom it believes to have knowledge of relevant~~
9 ~~matters. The procedure for the hearings or examinations shall be~~
10 ~~the same as that provided by the act of April 9, 1929 (P.L.343,~~
11 ~~No. 176), known as The Fiscal Code.~~

12 ~~Section 1624. Unauthorized disclosure.~~

13 ~~Any information gained by the department as a result of any~~
14 ~~return, examination, investigation, hearing or verification~~
15 ~~required or authorized by this article shall be confidential~~
16 ~~except for official purposes and except in accordance with~~
17 ~~proper judicial order or as otherwise provided by law, and any~~
18 ~~person unlawfully divulging the information shall be guilty of a~~
19 ~~misdemeanor and shall, upon conviction, be sentenced to pay a~~
20 ~~fine of not more than \$1000 and costs of prosecution or to~~
21 ~~imprisonment for not more than one year, or both.~~

22 ~~Section 1625. Cooperation with other governments.~~

23 ~~Notwithstanding the provisions of section 1617, the~~
24 ~~department may permit the Commissioner of the Internal Revenue~~
25 ~~Service of the United States, the proper officer of any state or~~
26 ~~the authorized representative of either of them to inspect the~~
27 ~~tax returns of any taxpayer, or may furnish to the commissioner~~
28 ~~or officer or to either of their authorized representative an~~
29 ~~abstract of the return of any taxpayer, or supply him with~~
30 ~~information concerning any item contained in any return or~~

1 ~~disclosed by the report of any examination or investigation of~~
2 ~~the return of any taxpayer. This permission shall be granted~~
3 ~~only if the laws of the United States or another state grant~~
4 ~~substantially similar privileges to the proper officer of the~~
5 ~~Commonwealth charged with the administration of this article.~~
6 ~~Section 1626. Bonds.~~

7 ~~(a) Taxpayer to file bond. The department may require a~~
8 ~~nonresident natural person or any foreign corporation,~~
9 ~~association, fiduciary or other entity, not authorized to do~~
10 ~~business within this Commonwealth or not having an established~~
11 ~~place of business in this Commonwealth and subject to the tax~~
12 ~~imposed by section 1603, to file a bond issued by a surety~~
13 ~~company authorized to do business in this Commonwealth and~~
14 ~~approved by the Insurance Commissioner as to solvency and~~
15 ~~responsibility, in amounts as it may fix, to secure the payment~~
16 ~~of any tax or penalties due or which may become due from~~
17 ~~anonresident natural person, corporation, association, fiduciary~~
18 ~~or other entity whenever it deems it necessary to protect the~~
19 ~~revenues obtained under this article. The department may also~~
20 ~~require a bond of a person petitioning the department for~~
21 ~~reassessment in the case of any assessment over \$500 or where,~~
22 ~~in its opinion, the ultimate collection is in jeopardy. For a~~
23 ~~period of three years, the department may require a bond of any~~
24 ~~person who has, on three or more occasions within a 12 month~~
25 ~~period, either filed a return or made payment to the department~~
26 ~~more than 30 days late. In the event the department determines a~~
27 ~~taxpayer is required to file a bond, it shall give notice to the~~
28 ~~taxpayer specifying the amount of the bond required. The~~
29 ~~taxpayer shall file the bond within five days after notice is~~
30 ~~given by the department unless, within five days, the taxpayer~~

1 ~~shall request in writing a hearing before the Secretary of~~
2 ~~Revenue or his representative. At the hearing, the necessity,~~
3 ~~propriety and amount of the bond shall be determined by the~~
4 ~~secretary or the secretary's representative. The determination~~
5 ~~shall be final and the taxpayer shall comply with it within 15~~
6 ~~days after notice is mailed to the taxpayer.~~

7 ~~(b) Securities in lieu of bond. In lieu of the bond~~
8 ~~required by this section securities approved by the department~~
9 ~~or cash in a prescribed amount may be deposited. The securities~~
10 ~~or cash shall be kept in the custody of the department. The~~
11 ~~department may apply the securities or cash to the tax imposed~~
12 ~~by this article and interest or penalties due without notice to~~
13 ~~the depositor. The securities may be sold by the department to~~
14 ~~pay the tax, and/or interest or penalties due at public or~~
15 ~~private sale upon five days' written notice to the depositor.~~

16 ~~(c) Failure to file bond. The department may file a lien~~
17 ~~under section 1616 against any taxpayer who fails to file a bond~~
18 ~~when required to do so under this section. All funds received~~
19 ~~upon execution of the judgment on the lien shall be refunded to~~
20 ~~the taxpayer with 3% interest, should a final determination be~~
21 ~~made that it does not owe any payment to the department.~~

22 ~~Section 1627. Natural Gas Severance Tax Fund.~~

23 ~~(a) Establishment. The Natural Gas Severance Tax Fund is~~
24 ~~established as a separate fund in the State Treasury.~~

25 ~~(b) Deposit. The proceeds of the natural gas severance tax,~~
26 ~~penalties and interest imposed by this article, less the amounts~~
27 ~~appropriated under section 1629, shall be deposited into the~~
28 ~~fund.~~

29 ~~(c) Restriction. The money in the fund shall only be used~~
30 ~~in accordance with section 1628.~~

1 ~~Section 1628. Administration of fund.~~

2 ~~(a) Transfers. The State Treasurer shall make the following~~
3 ~~transfers from the fund on a quarterly basis commencing on the~~
4 ~~first business day of January 2012:~~

5 ~~(1) Sixty percent to the General Fund.~~

6 ~~(2) Three percent to the Department of Public Welfare to~~
7 ~~provide cash and crisis grants to low income households under~~
8 ~~the Low Income Home Energy Assistance Program.~~

9 ~~(3) Fifteen percent to the Environmental Stewardship~~
10 ~~Fund.~~

11 ~~(4) Four percent to the Hazardous Sites Cleanup Fund.~~

12 ~~(5) Five percent to the Liquid Fuels Tax Fund for the~~
13 ~~reconstruction, maintenance and repair of State roadways and~~
14 ~~bridges. The funds under this paragraph shall be:~~

15 ~~(i) allocated in addition to and not in lieu of any~~
16 ~~funds normally and customarily allocated to the~~
17 ~~reconstruction, maintenance and repair of roadways and~~
18 ~~bridges by the Department of Transportation; and~~

19 ~~(ii) distributed equally among all the 67 counties~~
20 ~~of this Commonwealth.~~

21 ~~(b) Distributions.~~

22 ~~(1) The State Treasurer shall distribute from the fund,~~
23 ~~on a quarterly basis commencing on the first business day of~~
24 ~~January 2010, 4.5% to municipalities where natural gas has~~
25 ~~been severed and taxed under this article in the previous~~
26 ~~quarter. The amount distributed shall be determined on a pro~~
27 ~~rata basis as follows: The total amount to be distributed~~
28 ~~under this paragraph is divided by the total number of~~
29 ~~taxable gas units severed in the Commonwealth during the~~
30 ~~preceding quarter; this quotient is then multiplied by the~~

~~total number of taxable gas units severed in the municipality during the preceding quarter. The result equals the amount of money to be distributed to the municipality, which shall be used solely for any of the following:~~

~~(i) Reconstruction, maintenance and repair of municipal roadways and bridges which the municipality has determined have been or are being used extensively to transport natural gas or equipment related to the production of of natural gas.~~

~~(ii) Parks and recreation.~~

~~(iii) Industrial and commercial development.~~

~~(iv) Preservation and improvement of municipal water supplies.~~

~~(v) Maintenance and capital improvements to the municipal waste and sewage systems.~~

~~(vi) Preservation and reclamation of the surface waters of the municipality.~~

~~(vii) Other lawful purposes reasonably related to the consequences of severing natural gas in the municipality.~~

~~(2) The State Treasurer shall distribute from the fund, on a quarterly basis commencing on the first business day of January 2010, 4.5% to counties where natural gas has been severed and taxed under this article in the previous quarter. The amount distributed to a county shall be determined on a pro rata basis as follows: The total amount to be distributed under this paragraph is divided by the total number of taxable gas units severed in the Commonwealth during the preceding quarter; this quotient is then multiplied by the total number of taxable gas units severed in the county~~

1 ~~during the preceding quarter. The result equals the amount of~~
2 ~~money to be distributed to the county, which shall be~~
3 ~~administered by a board comprised of the chairperson of the~~
4 ~~board of county commissioners, a representative from the~~
5 ~~natural gas producing municipalities within the county and a~~
6 ~~county commissioner selected by the representative of the~~
7 ~~natural gas producing municipalities. The board shall give~~
8 ~~priority to the reconstruction, repair and maintenance of~~
9 ~~county roadways and bridges determined by the board to have~~
10 ~~been and are used to transport natural gas or equipment~~
11 ~~related to the production of natural gas and may allocate the~~
12 ~~remainder to the county or its municipalities for any of the~~
13 ~~purposes enumerated in subsection (b)(1). A simple majority~~
14 ~~vote of all the members of the board shall be required for~~
15 ~~any action under this paragraph.~~

16 ~~(3) The State Treasurer shall distribute from the fund,~~
17 ~~on a quarterly basis commencing on the first day of January~~
18 ~~2012, 2% to the Pennsylvania Game Commission, which shall be~~
19 ~~used for the commission's operational, administrative and~~
20 ~~enforcement costs.~~

21 ~~(4) The State Treasurer shall distribute from the fund,~~
22 ~~on a quarterly basis commencing on the first day of January~~
23 ~~2012, 2% to the Pennsylvania Fish and Boat Commission, which~~
24 ~~shall be used for the commission's operational,~~
25 ~~administrative and enforcement costs.~~

26 ~~(c) Annual reports. Counties and municipalities receiving~~
27 ~~money from the fund under this section shall submit to the~~
28 ~~Department of Transportation, on a form to be provided by the~~
29 ~~Department of Transportation on its Internet website, within 30~~
30 ~~days following the end of each fiscal year a report that~~

~~1 accounts for the use of the money distributed to them under~~
~~2 section 1628 in the fiscal year preceding the date of the~~
~~3 report. The Department of Transportation shall submit to the~~
~~4 Governor, to the chair and minority chair of the Transportation~~
~~5 Committee of the Senate and the chair and minority chair of the~~
~~6 Transportation Committee of the House of Representatives within~~
~~7 45 days following the end of each fiscal year a report that~~
~~8 accounts for the use of the money distributed to the Department~~
~~9 of Transportation under section 1628 in the fiscal year~~
~~10 preceding the date of the report and that includes copies of the~~
~~11 reports submitted to the Department of Transportation by the~~
~~12 counties and municipalities receiving money from the fund.~~
~~13 Section 1629. Appropriation.~~

~~14 The amount of the proceeds from the tax imposed by this~~
~~15 article as shall be necessary for the payment of refunds,~~
~~16 enforcement or administration under this article, is hereby~~
~~17 appropriated for such purposes.~~

~~18 Section 9.6. Section 1704 B of the act, amended or added~~
~~19 December 23, 2003 (P.L.250, No.46), is amended to read:~~

~~20 Section 1704 B. Carryover, Carryback, Refund and Assignment~~
~~21 of Credit. (a) If the taxpayer cannot use the entire amount of~~
~~22 the research and development tax credit for the taxable year in~~
~~23 which the research and development tax credit is first approved,~~
~~24 then the excess may be carried over to succeeding taxable years~~
~~25 and used as a credit against the qualified tax liability of the~~
~~26 taxpayer for those taxable years. Each time that the research~~
~~27 and development tax credit is carried over to a succeeding~~
~~28 taxable year, it is to be reduced by the amount that was used as~~
~~29 a credit during the immediately preceding taxable year. The~~
~~30 research and development tax credit provided by this article may~~

1 ~~be carried over and applied to succeeding taxable years for no~~
2 ~~more than fifteen taxable years following the first taxable year~~
3 ~~for which the taxpayer was entitled to claim the credit.~~

4 ~~(b) A research and development tax credit approved by the~~
5 ~~department for Pennsylvania qualified research and development~~
6 ~~expense in a taxable year first shall be applied against the~~
7 ~~taxpayer's qualified tax liability for the current taxable year~~
8 ~~as of the date on which the credit was approved before the~~
9 ~~research and development tax credit is applied against any tax~~
10 ~~liability under subsection (a).~~

11 ~~(c) A taxpayer is not entitled to carry back or obtain a~~
12 ~~refund of an unused research and development tax credit.~~

13 ~~(d) A taxpayer, upon application to and approval by the~~
14 ~~Department of Community and Economic Development, may sell or~~
15 ~~assign, in whole or in part, a research and development tax~~
16 ~~credit granted to the taxpayer under this article [if no claim~~
17 ~~for allowance of the credit is filed within one year from the~~
18 ~~date the credit is approved by the department under section~~
19 ~~1703-B]. The Department of Community and Economic Development~~
20 ~~shall establish guidelines for the approval of applications~~
21 ~~under this subsection.~~

22 ~~(e) The purchaser or assignee of a portion of a research and~~
23 ~~development tax credit under subsection (d) shall immediately~~
24 ~~claim the credit in the taxable year in which the purchase or~~
25 ~~assignment is made. The amount of the research and development~~
26 ~~credit that a purchaser or assignee may use against any one~~
27 ~~qualified tax liability may not exceed seventy five per cent of~~
28 ~~such qualified tax liability for the taxable year. The purchaser~~
29 ~~or assignee may not carry over, carry back, obtain a refund of~~
30 ~~or assign the research and development tax credit. The purchaser~~

1 ~~or assignee shall notify the department of the seller or~~
2 ~~assignor of the research and development tax credit in~~
3 ~~compliance with procedures specified by the department.~~

4 ~~Section 9.7. The act is amended by adding an article to~~
5 ~~read:~~

6 ARTICLE XVII F

7 EDUCATIONAL IMPROVEMENT TAX CREDIT

8 Section 1701 F. Scope.

9 ~~This article establishes the educational improvement tax~~
10 ~~credit.~~

11 Section 1702 F. Definitions.

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

15 "Business firm." An entity authorized to do business in this
16 Commonwealth and subject to taxes imposed under Article III, IV,
17 VI, VII, VIII, IX or XV. The term includes a pass through
18 entity.

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

23 "Department." The Department of Community and Economic
24 Development of the Commonwealth.

25 "Educational improvement organization." A nonprofit entity
26 which:

27 ~~(1) is exempt from Federal taxation under section 501(c)~~
28 ~~(3) of the Internal Revenue Code of 1986 (Public Law 99-514,~~
29 ~~26 U.S.C. § 1 et seq.); and~~

30 ~~(2) contributes at least 80% of its annual receipts as~~

1 ~~grants to a public school for innovative educational~~
2 ~~programs.~~

3 ~~For purposes of this definition, a nonprofit entity~~
4 ~~"contributes" its annual cash receipts when it expends or~~
5 ~~otherwise irrevocably encumbers those funds for expenditure~~
6 ~~during the then current fiscal year of the nonprofit entity or~~
7 ~~during the next succeeding fiscal year of the nonprofit entity.~~

8 ~~"Eligible pre kindergarten student." A student, including an~~
9 ~~eligible student with a disability, who is enrolled in a pre~~
10 ~~kindergarten program and is a member of a household with a~~
11 ~~maximum annual household income as increased by the applicable~~
12 ~~income allowance.~~

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

17 ~~"Eligible student with a disability." A pre kindergarten~~
18 ~~student or a school age student who meets all of the following:~~

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

24 ~~(2) Needs special education and related services.~~

25 ~~(3) Is enrolled in a pre kindergarten program or in a~~
26 ~~school.~~

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

29 ~~"Household." An individual living alone or with the~~
30 ~~following: a spouse, parent and their unemancipated minor~~

~~1 children; and other unemancipated minor children who are related
2 by blood or marriage; or other adults or unemancipated minor
3 children living in the household who are dependent upon the
4 individual.~~

~~5 "Household income." All moneys or property received of
6 whatever nature and from whatever source derived. The term does
7 not include the following:~~

~~8 (1) Periodic payments for sickness and disability other
9 than regular wages received during a period of sickness or
10 disability.~~

~~11 (2) Disability, retirement or other payments arising
12 under workers' compensation acts, occupational disease acts
13 and similar legislation by any government.~~

~~14 (3) Payments commonly recognized as old age or
15 retirement benefits paid to persons retired from service
16 after reaching a specific age or after a stated period of
17 employment.~~

~~18 (4) Payments commonly known as public assistance or
19 unemployment compensation payments by a governmental agency.~~

~~20 (5) Payments to reimburse actual expenses.~~

~~21 (6) Payments made by employers or labor unions for
22 programs covering hospitalization, sickness, disability or
23 death, supplemental unemployment benefits, strike benefits,
24 Social Security and retirement.~~

~~25 (7) Compensation received by United States servicemen
26 serving in a combat zone.~~

~~27 "Income allowance."~~

~~28 (1) As follows:~~

~~29 (i) Before July 1, 2011, \$10,000 for each eligible
30 student, eligible pre kindergarten student and dependent~~

~~member of the household.~~

~~(ii) After June 30, 2011, \$12,000 for each eligible student, eligible pre kindergarten student and dependent member of the household.~~

~~(2) Beginning July 1, 2012, the Department of Community and Economic Development shall annually adjust the income allowance amounts under paragraph (1) to reflect any upward changes in the Consumer Price Index for All Urban Consumers for the Pennsylvania, New Jersey, Delaware and Maryland area in the preceding 12 months and shall immediately submit the adjusted amounts to the Legislative Reference Bureau for publication as a notice in the Pennsylvania Bulletin.~~

~~"Innovative educational program." An advanced academic or similar program that is not part of the regular academic program of a public school but that enhances the curriculum or academic program of the public school or provides pre kindergarten programs to public school students.~~

~~"Maximum annual household income."~~

~~(1) Except as set forth in paragraph (2), as follows:~~

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

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

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

~~(i) the sum of:~~

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

~~and~~

~~(B) the applicable income allowance; by~~

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

Support Level	Support Level Factor
--------------------------	---------------------------------

1 ~~qualified under section 1703 F; and~~

2 ~~(2) contributes at least 80% of its annual cash receipts~~
3 ~~to a pre kindergarten scholarship program by expending or~~
4 ~~otherwise irrevocably encumbering those funds for~~
5 ~~distribution during the then current fiscal year of the~~
6 ~~organization or during the next succeeding fiscal year of the~~
7 ~~organization.~~

8 ~~"Pre kindergarten scholarship program." A program to provide~~
9 ~~tuition to eligible pre kindergarten students to attend a pre~~
10 ~~kindergarten program operated by or in conjunction with a school~~
11 ~~located in this Commonwealth and that includes an application~~
12 ~~and review process for the purpose of making awards to eligible~~
13 ~~pre kindergarten students and awards scholarships to eligible~~
14 ~~pre kindergarten students without limiting availability to only~~
15 ~~students of one school.~~

16 ~~"Public school." A public pre kindergarten where compulsory~~
17 ~~attendance requirements do not apply or a public kindergarten,~~
18 ~~elementary school or secondary school at which the compulsory~~
19 ~~attendance requirements of this Commonwealth may be met and~~
20 ~~which meets the applicable requirements of Title VI of the Civil~~
21 ~~Rights Act of 1964 (Public Law 88 352, 78 Stat. 241).~~

22 ~~"Scholarship organization." A nonprofit entity which:~~

23 ~~(1) is exempt from Federal taxation under section 501(c)~~
24 ~~(3) of the Internal Revenue Code of 1986 (Public Law 99 514,~~
25 ~~26 U.S.C. § 1 et seq.); and~~

26 ~~(2) contributes at least 80% of its annual cash receipts~~
27 ~~to a scholarship program.~~

28 ~~For purposes of this definition, a nonprofit entity~~

29 ~~"contributes" its annual cash receipts to a scholarship program~~
30 ~~when it expends or otherwise irrevocably encumbers those funds~~

1 ~~for distribution during the then current fiscal year of the~~
2 ~~nonprofit entity or during the next succeeding fiscal year of~~
3 ~~the nonprofit entity.~~

4 ~~"Scholarship program." A program to provide tuition to~~
5 ~~eligible students to attend a school located in this~~
6 ~~Commonwealth. A scholarship program must include an application~~
7 ~~and review process for the purpose of making awards to eligible~~
8 ~~students. The award of scholarships to eligible students shall~~
9 ~~be made without limiting availability to only students of one~~
10 ~~school.~~

11 ~~"School." A public or nonpublic pre kindergarten,~~
12 ~~kindergarten, elementary school or secondary school at which the~~
13 ~~compulsory attendance requirements of the Commonwealth may be~~
14 ~~met and which meets the applicable requirements of Title VI of~~
15 ~~the Civil Rights Act of 1964 (Public Law 88 352, 78 Stat. 241).~~

16 ~~"School age." Children from the earliest admission age to a~~
17 ~~school's pre kindergarten or kindergarten program or, when no~~
18 ~~pre kindergarten or kindergarten program is provided, the~~
19 ~~school's earliest admission age for beginners, until the end of~~
20 ~~the school year the student attains 21 years of age or~~
21 ~~graduation from high school, whichever occurs first.~~

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

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

29 ~~(2) Is accredited by an accrediting association approved~~
30 ~~by the State Board of Education.~~

1 ~~(3) Is a school for the blind or deaf receiving~~
2 ~~Commonwealth appropriations.~~

3 ~~(4) Is operated by or under the authority of a bona fide~~
4 ~~religious institution or by the Commonwealth or any political~~
5 ~~subdivision thereof.~~

6 ~~"Support level." The level of support needed by an eligible~~
7 ~~student with a disability, as set forth in the following matrix:~~

8 ~~Support Level 1—The student is not enrolled in a~~
9 ~~special education school.~~

10 ~~Support Level 2—The student is enrolled as a student in~~
11 ~~a special education school.~~

12 ~~Section 1703 F. Qualification and application.~~

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

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

25 ~~(c) Scholarship organizations and pre kindergarten~~
26 ~~scholarship organizations. A scholarship organization or pre~~
27 ~~kindergarten scholarship organization must certify to the~~
28 ~~department that the organization is eligible to participate in~~
29 ~~the program established under this article and must agree to~~
30 ~~annually report the following information to the department by~~

~~December 1, 2005, and September 1 of each year thereafter:~~

~~(1) (i) The number of scholarships awarded during the immediately preceding school year to eligible pre-kindergarten students.~~

~~(ii) The total and average amounts of the scholarships awarded during the immediately preceding school year to eligible pre-kindergarten students.~~

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

~~(iv) The total and average amounts of the scholarships awarded during the immediately preceding school year to eligible students in grades K through 8.~~

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

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

~~(vii) Where the scholarship organization or pre-kindergarten scholarship organization collects information on a county by county basis, the total number and the total amount of scholarships awarded during the immediately preceding school year to residents of each county in which the scholarship organization or pre-kindergarten scholarship organization awarded scholarships.~~

~~(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than September 1, 2005, and May 1 of each year thereafter,~~

1 ~~the department shall annually distribute such sample forms,~~
2 ~~together with the forms on which the reports are required to~~
3 ~~be made, to each listed scholarship organization and pre-~~
4 ~~kindergarten scholarship organization.~~

5 ~~(3) The department may not require any other information~~
6 ~~to be provided by scholarship organizations or pre-~~
7 ~~kindergarten scholarship organizations, except as expressly~~
8 ~~authorized in this article.~~

9 ~~(d) Educational improvement organization.~~

10 ~~(1) An application submitted by an educational~~
11 ~~improvement organization must describe its proposed~~
12 ~~innovative educational program or programs in a form~~
13 ~~prescribed by the department. The department shall consult~~
14 ~~with the Department of Education as necessary. The department~~
15 ~~shall review and approve or disapprove the application. In~~
16 ~~order to be eligible to participate in the program~~
17 ~~established under this article, an educational improvement~~
18 ~~organization must agree to annually report the following~~
19 ~~information to the department by December 1, 2005, and~~
20 ~~September 1 of each year thereafter:~~

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

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

29 ~~(iii) The names of the public schools and school~~
30 ~~districts where innovative educational programs that~~

1 ~~received grants during the immediately preceding school-~~
2 ~~year were implemented.~~

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

9 ~~(2) The information required under paragraph (1) shall~~
10 ~~be submitted on a form provided by the department. No later~~
11 ~~than September 1, 2005, and May 1 of each year thereafter,~~
12 ~~the department shall annually distribute such sample forms,~~
13 ~~together with the forms on which the reports are required to~~
14 ~~be made, to each listed educational improvement organization.~~

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

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

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

30 ~~Section 1704 F. Application.~~

1 ~~(a) Scholarship organization or pre-kindergarten scholarship~~
2 ~~organizations. A business firm shall apply to the department~~
3 ~~for a tax credit under section 1705 F. A business firm shall~~
4 ~~receive a tax credit under this article if the scholarship~~
5 ~~organization or pre-kindergarten scholarship organization that~~
6 ~~receives the contribution appears on the list established under~~
7 ~~section 1703 F(f).~~

8 ~~(b) Educational improvement organization. A business firm~~
9 ~~must apply to the department for a credit under section 1705 F.~~
10 ~~A business firm shall receive a tax credit under this article if~~
11 ~~the department has approved the program provided by the~~
12 ~~educational improvement organization that receives the~~
13 ~~contribution.~~

14 ~~(c) Availability of tax credits. Tax credits under this~~
15 ~~article shall be made available by the department on a first-~~
16 ~~come, first-served basis within the limitation established under~~
17 ~~section 1706 F(a).~~

18 ~~(d) Contributions. A contribution by a business firm to a~~
19 ~~scholarship organization, pre-kindergarten scholarship~~
20 ~~organization or educational improvement organization shall be~~
21 ~~made no later than 60 days following the approval of an~~
22 ~~application under subsection (a) or (b).~~

23 ~~Section 1705 F. Tax credit.~~

24 ~~(a) Scholarship or educational improvement organizations.~~
25 ~~In accordance with section 1706 F(a), the Department of Revenue~~
26 ~~shall grant a tax credit against any tax due under Article III,~~
27 ~~IV, VI, VII, VIII, IX or XV to a business firm providing proof~~
28 ~~of a contribution to a scholarship organization or educational~~
29 ~~improvement organization in the taxable year in which the~~
30 ~~contribution is made which shall not exceed 75% of the total~~

1 ~~amount contributed during the taxable year by the business firm.~~
2 ~~Such credit shall not exceed \$300,000 annually per business firm~~
3 ~~for contributions made to scholarship organizations or~~
4 ~~educational improvement organizations.~~

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

13 ~~(c) Pre-kindergarten scholarship organizations. In~~
14 ~~accordance with section 1706 F(a), the Department of Revenue~~
15 ~~shall grant a tax credit against any tax due under Article III,~~
16 ~~IV, VI, VII, VIII, IX or XV to a business firm providing proof~~
17 ~~of a contribution to a pre-kindergarten scholarship organization~~
18 ~~in the taxable year in which the contribution is made which~~
19 ~~shall be equal to 100% of the first \$10,000 contributed during~~
20 ~~the taxable year by the business firm, and which shall not~~
21 ~~exceed 90% of the remaining amount contributed during the~~
22 ~~taxable year by the business firm. Such credit shall not exceed~~
23 ~~\$150,000 annually per business firm for contributions made to~~
24 ~~pre-kindergarten scholarship 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) or (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 ~~(c) 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 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 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 credit~~
18 ~~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 ~~credit.~~

22 ~~(f) Restriction on applicability of credits. No credits~~
23 ~~granted under this section shall be applied against any tax~~
24 ~~withheld by an employer from an employee under Article III.~~

25 ~~(g) Time of application for credits.~~

26 ~~(1) Except as provided in paragraphs (2) and (3), the~~
27 ~~department may accept applications for tax credits available~~
28 ~~during a fiscal year no earlier than July 1 of each fiscal~~
29 ~~year.~~

30 ~~(2) The application of any business firm for tax credits~~

~~available during a fiscal year as part of the second year of a two year commitment may be accepted no earlier than May 15 preceding the fiscal year.~~

~~(3) The application under subsection (a) of any pass-through entity for approval of single year tax credits available during a fiscal year against the taxes imposed under Article III or under subsection (b) for approval of credits against such taxes for the first year of a two year commitment may be accepted by the department no earlier than the first business day following July 7 of the fiscal year.~~

~~Section 1706 F. Limitations.~~

~~(a) Amount.~~

~~(1) The total aggregate amount of all tax credits approved shall not exceed \$67,000,000 in a fiscal year. No less than \$44,666,667 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to scholarship organizations. No less than \$22,333,333 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to educational improvement organizations.~~

~~(2) (i) For the fiscal years 2004-2005, 2005-2006 and 2006-2007, the total aggregate amount of all tax credits approved for contributions from business firms to pre-kindergarten scholarship programs shall not exceed \$5,000,000 in a fiscal year.~~

~~(ii) For the fiscal year 2007-2008 and each fiscal year thereafter, the total aggregate amount of all tax credits approved for contributions from business firms to pre-kindergarten scholarship programs shall not exceed \$8,000,000 in a fiscal year.~~

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

~~(c) Tax liability.~~

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

~~(2) In the case of a credit granted to a pass through entity which elects to transfer the credit according to section 1705 F(e), a tax credit granted for any one taxable year and transferred to a shareholder, member or partner may not exceed the tax liability of the shareholder, member or partner.~~

~~(d) Use. A tax credit not used by the applicant in the taxable year the contribution was made or in the year designated by the shareholder, member or partner to whom the credit was transferred under section 1705 F(e) may not be carried forward or carried back and is not refundable or transferable.~~

~~(e) Nontaxable income. A scholarship received by an eligible student or eligible pre kindergarten student shall not be considered to be taxable income for the purposes of Article III.~~

~~Section 1707 F. Lists.~~

~~The Department of Revenue shall provide a list of all scholarship organizations, pre kindergarten scholarship organizations and educational improvement organizations receiving contributions from business firms granted a tax credit under this article to the General Assembly by June 30 of each year.~~

~~Section 1708 F. Guidelines.~~

1 ~~The department in consultation with the Department of~~
2 ~~Education shall develop guidelines to determine the eligibility~~
3 ~~of an innovative educational program.~~

4 Section 10. Article XXIX A of the act, added June 30, 1995-
5 (P.L.139, No.21), is amended to read:

6 {ARTICLE XXIX A

7 TAX AMNESTY PROGRAM

8 Section 2901 A. Definitions. The following words, terms and
9 phrases, when used in this article, shall have the meanings
10 ascribed to them in this section, except where the context
11 clearly indicates a different meaning:

12 "Amnesty period." The time period of ninety consecutive days
13 established by the Governor during the fiscal year beginning
14 July 1, 1995, and ending June 30, 1996.

15 "Department." The Department of Revenue of the Commonwealth.

16 "Eligible tax." Any tax imposed by the Commonwealth for
17 deposit in the General Fund or the Motor License Fund or the
18 Liquid Fuels Tax Fund for taxes delinquent as of December 31,
19 1993. The term includes any interest or penalty on an eligible
20 tax. The term excludes any tax imposed by a political
21 subdivision.

22 "Program." The tax amnesty program as provided for in this
23 article.

24 "Taxpayer." Any person, association, fiduciary, partnership,
25 corporation or other entity required to pay or collect any of
26 the eligible taxes. The term shall not include a taxpayer who,
27 prior to the amnesty period has received notice that he is the
28 subject of a criminal investigation for an alleged violation of
29 any law imposing an eligible tax or who, prior to the amnesty
30 period, has been named as a defendant in a criminal complaint

1 ~~alleging a violation of any law imposing an eligible tax or is a~~
2 ~~defendant in a pending criminal action for an alleged violation~~
3 ~~of any law imposing an eligible tax.~~

4 ~~Section 2902 A. Establishment of Amnesty Program. (a)~~
5 ~~There is hereby established a tax amnesty program which shall be~~
6 ~~administered by the department.~~

7 ~~(b) The program shall apply to a taxpayer who is delinquent~~
8 ~~on payment of a liability for an eligible tax as of June 1,~~
9 ~~1995, including a liability for returns not filed, liabilities~~
10 ~~according to records of the department as of June 1, 1995,~~
11 ~~liabilities not reported, underreported or not established, but~~
12 ~~delinquent as of June 1, 1995.~~

13 ~~Section 2903 A. Required Payment. (a) Subject to section~~
14 ~~2904 A, all taxpayers who participate in the program shall~~
15 ~~comply with all of the following:~~

16 ~~(1) During the amnesty period, file a tax amnesty return in~~
17 ~~such form and containing such information as the department~~
18 ~~shall require. A tax amnesty return shall be considered to be~~
19 ~~timely filed if it is postmarked during the amnesty period.~~

20 ~~(2) During the amnesty period, make payment of all taxes and~~
21 ~~interest due the Commonwealth in accordance with the tax amnesty~~
22 ~~return that is filed.~~

23 ~~(3) File complete tax returns for all years for which the~~
24 ~~taxpayer previously has not filed a tax return and file complete~~
25 ~~amended returns for all years for which the taxpayer~~
26 ~~underreported eligible tax liability.~~

27 ~~(b) The department shall not collect the penalties owed by a~~
28 ~~taxpayer who participates in the program under subsection (a).~~
29 ~~The department shall not pursue an administrative or judicial~~
30 ~~proceeding against a taxpayer with respect to any eligible tax~~

1 ~~that is disclosed on a tax amnesty return.~~

2 ~~Section 2904 A. Amnesty Contingent on Continued~~
3 ~~Compliance. Notwithstanding any other provision of this~~
4 ~~article, the department may assess and collect from a taxpayer~~
5 ~~all penalties foregone through the tax amnesty program~~
6 ~~established in this article if, within two years after the end~~
7 ~~of the amnesty program, either of the following occurs:~~

8 ~~(1) the taxpayer granted amnesty under this article becomes~~
9 ~~delinquent for three consecutive periods in payment of taxes due~~
10 ~~or filing of returns required on a semimonthly, monthly,~~
11 ~~quarterly or other basis and the taxpayer has not contested the~~
12 ~~tax liability through a timely valid administrative or judicial~~
13 ~~appeal; or~~

14 ~~(2) the taxpayer granted amnesty under this article becomes~~
15 ~~delinquent and is eight or more months late in payment of taxes~~
16 ~~due or filing of returns on an annual basis and the taxpayer has~~
17 ~~not contested the liability through a timely valid~~
18 ~~administrative or judicial appeal.~~

19 ~~Section 2905 A. Limitation of Deficiency Assessment. If,~~
20 ~~subsequent to the amnesty period, the department issues a~~
21 ~~deficiency assessment with respect to a tax amnesty return, the~~
22 ~~department shall have the authority to impose penalties and to~~
23 ~~pursue a criminal action only with respect to the difference~~
24 ~~between the amount shown on that tax amnesty return and the~~
25 ~~current amount of tax.~~

26 ~~Section 2906 A. Overpayment of Tax. Notwithstanding any~~
27 ~~other provisions of this or any other act, if an overpayment of~~
28 ~~eligible tax is refunded or credited within one hundred eighty~~
29 ~~days after the tax amnesty return is filed, no interest shall be~~
30 ~~allowed on the overpayment.~~

1 ~~Section 2907 A. Previously Paid Interest and Penalties. No~~
2 ~~refund or credit shall be allowed for any interest or penalty on~~
3 ~~eligible taxes paid to the department prior to the amnesty~~
4 ~~period.~~

5 ~~Section 2908 A. Proceedings Relating to Tax Amnesty Return~~
6 ~~Barred. Participation in the program is conditioned upon the~~
7 ~~taxpayer's agreement that the right to protest or pursue an~~
8 ~~administrative or judicial proceeding with regard to tax amnesty~~
9 ~~returns filed under the program or to claim any refund of money~~
10 ~~paid under the program is barred.~~

11 ~~Section 2909 A. Undisclosed Liabilities. Nothing in this~~
12 ~~article shall be construed to prohibit the department from~~
13 ~~instituting civil or criminal proceedings against any taxpayer~~
14 ~~with respect to any amount of tax that is not disclosed on the~~
15 ~~tax amnesty return.~~

16 ~~Section 2910 A. Duties of Department. (a) The department~~
17 ~~shall develop regulations to implement the provisions of this~~
18 ~~article. The regulations must be published in the Pennsylvania~~
19 ~~Bulletin within ninety days of the effective date of this~~
20 ~~article and shall contain, but not be limited to, the following~~
21 ~~information:~~

22 ~~(1) An explanation of the program and the requirements for~~
23 ~~eligibility for the program.~~

24 ~~(2) The dates during which a tax amnesty return may be~~
25 ~~filed.~~

26 ~~(3) A specimen copy of the tax amnesty return.~~

27 ~~(b) The department shall publicize the program to maximize~~
28 ~~public awareness of and participation in the program. The~~
29 ~~department shall coordinate to the highest degree possible its~~
30 ~~publicity efforts and other actions taken to implement this~~

1 article.

2 ~~(c) Report. The department shall issue a report to the~~
3 ~~General Assembly within one hundred eighty days after the end of~~
4 ~~the amnesty period detailing the implementation of the program.~~
5 ~~The report shall contain, but not be limited to, the following~~
6 ~~information:~~

7 ~~(1) A detailed breakdown of the department's administrative~~
8 ~~costs in implementing the program.~~

9 ~~(2) The number of tax amnesty returns filed and a breakdown~~
10 ~~of the number and dollar amount of revenue raised for each tax~~
11 ~~by calendar year during which the tax period ended. In addition,~~
12 ~~the gross revenues shall be broken down into the following~~
13 ~~categories:~~

14 ~~(i) Amounts represented by assessments receivable~~
15 ~~established by the department on or before the first day of the~~
16 ~~amnesty period.~~

17 ~~(ii) All other amounts.~~

18 ~~(3) The total dollar amount of revenue collected by the~~
19 ~~program.~~

20 ~~(4) The total dollar amount of penalties forgiven under the~~
21 ~~program.~~

22 ~~(5) The demographic characteristics of tax amnesty~~
23 ~~participants, including standard industrial codes of~~
24 ~~participants, type of taxpayer (individual, partnership,~~
25 ~~corporation or other entity), size of tax liability and~~
26 ~~geographical location.~~

27 ~~(d) The department shall notify in writing all known tax~~
28 ~~delinquents at their last known address of the existence of the~~
29 ~~tax amnesty program. The sole purpose of the letter sent by the~~
30 ~~department to taxpayers must be notification of the program.~~

1 ~~Section 2911 A. Method of Payment. All tax payments under~~
2 ~~the program shall be made by certified check, money order, cash~~
3 ~~or its equivalent.~~

4 ~~Section 2912 A. Exemption from Review Process.~~
5 ~~Notwithstanding any law to the contrary, the regulations issued~~
6 ~~by the department for the program shall be exempt from the~~
7 ~~regulatory review process provided in the act of June 25, 1982~~
8 ~~(P.L.633, No.181), known as the "Regulatory Review Act."~~

9 ~~Section 2913 A. Use of Revenue. All revenue generated by~~
10 ~~this article shall be deposited into a restricted revenue~~
11 ~~account in the General Fund. Revenue from the restricted revenue~~
12 ~~account shall be distributed as follows:~~

13 ~~(1) Repayment of any cost for administration of the program~~
14 ~~to the department.~~

15 ~~(2) An amount not exceeding sixty seven million dollars~~
16 ~~(\$67,000,000) from General Fund sources shall be deposited into~~
17 ~~the General Fund. If delinquent tax collections in the General~~
18 ~~Fund for fiscal year 1995-1996 fall below the level of the~~
19 ~~previous year, an additional amount equal to the difference~~
20 ~~shall be deposited into the General Fund.~~

21 ~~(3) All revenue from Motor License Fund sources shall be~~
22 ~~deposited in the Motor License Fund no later than June 30, 1996.~~

23 ~~(4) All revenue from Liquid Fuels Tax Fund sources shall be~~
24 ~~deposited in the Liquid Fuels Tax Fund no later than June 30,~~
25 ~~1996.~~

26 ~~Section 2914 A. Penalties for Certain Corporate Officers.~~
27 ~~If an officer or officers of a corporation or association~~
28 ~~intentionally neglect or refuse to make reports to the Auditor~~
29 ~~General, or to the department, or successively to the Auditor~~
30 ~~General and to the department, as required by law, for any two~~

1 ~~successive tax years, the officer or officers commit a~~
2 ~~misdemeanor and shall, upon conviction, be sentenced to pay a~~
3 ~~fine of not less than two thousand five hundred dollars (\$2,500)~~
4 ~~nor more than five thousand dollars (\$5,000). This fine shall be~~
5 ~~in addition to any fine or prison sentence under section 1704 of~~
6 ~~the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal~~
7 ~~Code."~~

8 ~~Section 2915 A. Further Examination of Books and Records.~~

9 ~~(a) The department or any of its authorized agents is hereby~~
10 ~~authorized to examine the books, papers and records of any~~
11 ~~taxpayer or other persons in order to verify the accuracy and~~
12 ~~completeness of any return or report made or, if no return or~~
13 ~~report was made, to ascertain and assess any tax or other~~
14 ~~liability owed the Commonwealth.~~

15 ~~(b) The department may determine, by desk, field or other~~
16 ~~audit, the amount of tax or other liability required to be paid~~
17 ~~to the Commonwealth. The department may determine the liability~~
18 ~~based upon the facts contained in the return or report being~~
19 ~~audited or other information in the department's possession. The~~
20 ~~department may determine the liability based upon a reasonable~~
21 ~~statistical sample or test audit performed in accordance with~~
22 ~~the regulations of the department when the individual being~~
23 ~~audited does not have complete records of transactions or when~~
24 ~~the review of each transaction or invoice would place an undue~~
25 ~~burden on the department to conduct an audit in a timely and~~
26 ~~efficient manner.~~

27 ~~(c) The taxpayer may challenge the accuracy of a statistical~~
28 ~~sample or test audit by providing clear and convincing evidence~~
29 ~~that the method used for a statistical sample or test audit is~~
30 ~~erroneous, lacks a rational basis or produces a different result~~

1 ~~when the complete records are considered.~~

2 ~~Section 2916 A. Additional Penalty. (a) Subject to the~~
3 ~~limitations provided under subsection (b), a penalty of fifteen~~
4 ~~per cent of the unpaid tax liability and penalties and interest~~
5 ~~shall be levied against a taxpayer subject to an eligible tax if~~
6 ~~the taxpayer had failed to remit an eligible tax due or had an~~
7 ~~unreported or underreported liability for an eligible tax on or~~
8 ~~after the first day following the end of the amnesty period.~~

9 ~~(b) The penalty provided in this section shall not apply to~~
10 ~~a taxpayer who:~~

11 ~~(1) has paid the liability in full or entered into a duly~~
12 ~~approved and executed deferred payment plan on or before the~~
13 ~~last day of the amnesty period; or~~

14 ~~(2) has filed a timely and valid administrative or judicial~~
15 ~~appeal contesting the liability on or before the last day of the~~
16 ~~amnesty period.~~

17 ~~(c) The penalty provided by this section shall be in~~
18 ~~addition to all other penalties provided by law.~~

19 ~~Section 2917 A. Application of Penalty and Powers. Sections~~
20 ~~2914 A and 2915 A of this article shall apply to all taxes~~
21 ~~collected by the department.~~

22 ~~Section 2918 A. Construction. Except as expressly provided~~
23 ~~in this article, this article shall not:~~

24 ~~(1) be construed to relieve any person, corporation or other~~
25 ~~entity from the filing of returns or from any taxes, penalties~~
26 ~~or interest imposed by the provisions of any laws;~~

27 ~~(2) affect or terminate any petitions, investigations,~~
28 ~~prosecutions, legal or otherwise, or other proceedings pending~~
29 ~~under the provisions of any such laws; or~~

30 ~~(3) prevent the commencement or further prosecution of any~~

1 ~~proceedings by the proper authorities of the Commonwealth for~~
2 ~~violation of any such laws or for the assessment, settlement,~~
3 ~~collection or recovery of taxes, penalties or interest due to~~
4 ~~the Commonwealth under any such laws.~~

5 ~~Section 2919 A. Suspension of Inconsistent Acts. All acts~~
6 ~~or parts of acts inconsistent with the provisions of this~~
7 ~~article are suspended to the extent necessary to carry out the~~
8 ~~provisions of this article.]~~

9 ~~Section 11. The act is amended by adding articles to read:~~

10 ~~ARTICLE XXIX D~~

11 ~~(RESERVED)~~

12 ~~ARTICLE XXIX E~~

13 ~~REDUCTION OF TAX CREDITS~~

14 ~~Section 2901 E. Applicability.~~

15 ~~This article shall apply to tax credits awarded in fiscal~~
16 ~~years beginning after June 30, 2009, and ending before July 1,~~
17 ~~2011.~~

18 ~~Section 2902 E. Reduction.~~

19 ~~(a) Total amount reductions. For credits authorized under~~
20 ~~Articles XVII B, XVII D and XVII F, the total amount of credits~~
21 ~~awarded each year shall be limited to 67% of the total amount of~~
22 ~~credits authorized by law to be awarded each year.~~

23 ~~(b) Individual taxpayer reductions. For credits authorized~~
24 ~~under section 206(b), Articles XVII A, XVII E, XVIII B and XIX A~~
25 ~~and Ch. 5 Subch. B and Ch. 9 of the act of December 1, 2004~~
26 ~~(P.L. 1758, No.226), known as the First Class Cities Economic~~
27 ~~Development District Act, the amount of credit awarded to each~~
28 ~~taxpayer shall be limited to 67% of the amount of credit~~
29 ~~authorized by law to be awarded to each taxpayer.~~

30 ~~(c) Total reduction. A taxpayer shall not be entitled to a~~

1 ~~credit under Ch.7 of the act of July 9, 2008 (1st Sp. Sess.,~~
2 ~~P.L. 1873, No.1), known as the Alternative Energy Investment~~
3 ~~Act.~~

4 ~~ARTICLE XXIX F~~

5 ~~TAX AMNESTY PROGRAM FOR~~

6 ~~FISCAL YEAR 2009 2010~~

7 ~~Section 2901 F. Definitions.~~

8 ~~The following words, terms and phrases, when used in this~~
9 ~~article, shall have the meanings ascribed to them in this~~
10 ~~section, except where the context clearly indicates a different~~
11 ~~meaning:~~

12 ~~"Amnesty period." The period from April 26, 2010, through~~
13 ~~June 18, 2010, inclusive. The publishing of guidelines and~~
14 ~~estimates under section 2910 F(a) shall be completed 30 days~~
15 ~~prior to April 26, 2010.~~

16 ~~"Department." The Department of Revenue of the Commonwealth.~~

17 ~~"Eligible tax." Any tax administered by the Department of~~
18 ~~Revenue delinquent as of June 30, 2009. The term includes any~~
19 ~~interest or penalty on an eligible tax. For an unknown~~
20 ~~liability, the term shall only include taxes due within five~~
21 ~~years prior to June 30, 2009.~~

22 ~~"Program." The tax amnesty program established under section~~
23 ~~2902 F as provided for in this article.~~

24 ~~"Taxpayer." Any person, association, fiduciary, partnership,~~
25 ~~corporation or other entity required to pay or collect any of~~
26 ~~the eligible taxes. The term shall not include a taxpayer who,~~
27 ~~prior to the amnesty period, has received notice that the~~
28 ~~taxpayer is the subject of a criminal investigation for an~~
29 ~~alleged violation of any law imposing an eligible tax or who,~~
30 ~~prior to the amnesty period, has been named as a defendant in a~~

~~1 criminal complaint alleging a violation of any law imposing an
2 eligible tax or is a defendant in a pending criminal action for
3 an alleged violation of any law imposing an eligible tax.~~

~~4 "Unknown liability." A liability for an eligible tax for
5 which either:~~

~~6 (1) no return or report has been filed, no payment has
7 been made and the taxpayer has not been contacted by the
8 department concerning the unfiled returns or reports or
9 unpaid tax; or~~

~~10 (2) a return or report has been filed, the tax was
11 underreported and the taxpayer has not been contacted by the
12 department concerning the underreported tax.~~

~~13 Section 2902 F. Establishment of program.~~

~~14 (a) Program established. There is established a tax amnesty
15 program which shall be administered by the department.~~

~~16 (b) Applicability. The program shall apply to a taxpayer
17 who is delinquent on payment of a liability for an eligible tax
18 as of June 30, 2009, including a liability for returns not
19 filed, liabilities according to records of the department as of
20 June 30, 2009, liabilities not reported, underreported or not
21 established, but delinquent as of June 30, 2009.~~

~~22 (c) Future amnesty program participation. A taxpayer who
23 participates in the program shall not be eligible to participate
24 in a future tax amnesty program.~~

~~25 (d) Deferred payment plan agreement. Existing deferred
26 payment plan agreements between a taxpayer and the department
27 where the agreement applies to a tax liability for which amnesty
28 is sought by the taxpayer for amounts remaining on the tax
29 liability, the taxpayer, as a condition of receiving amnesty,
30 shall pay the liability, notwithstanding terms of the agreement~~

1 ~~to the contrary, in full during the amnesty period.~~

2 ~~Section 2903 F. Required payment.~~

3 ~~(a) Taxpayer requirements. Subject to section 2904 F, all~~
4 ~~taxpayers who participate in the program shall comply with all~~
5 ~~of the following:~~

6 ~~(1) During the amnesty period, file a tax amnesty return~~
7 ~~in such form and containing such information as the~~
8 ~~department shall require. A tax amnesty return shall be~~
9 ~~considered to be timely filed if it is postmarked during the~~
10 ~~amnesty period or timely electronically or otherwise filed.~~

11 ~~(2) During the amnesty period, make payment of all taxes~~
12 ~~and one half of the interest due to the Commonwealth in~~
13 ~~accordance with the tax amnesty return that is filed. The~~
14 ~~taxpayer shall not be required to pay any penalty applicable~~
15 ~~to an eligible tax.~~

16 ~~(3) File complete tax returns for all years for which~~
17 ~~the taxpayer previously has not filed a tax return and file~~
18 ~~complete amended returns for all years for which the taxpayer~~
19 ~~underreported eligible tax liability.~~

20 ~~(b) Prohibitions.~~

21 ~~(1) The department shall not collect the penalties or~~
22 ~~interest waived under subsection (a) (2). Except as otherwise~~
23 ~~provided in this article, the department shall not pursue any~~
24 ~~administrative or judicial proceeding against a taxpayer with~~
25 ~~respect to any eligible tax that is disclosed on a tax~~
26 ~~amnesty return.~~

27 ~~(2) A taxpayer with unknown liabilities reported and~~
28 ~~paid under this program and who complies with all other~~
29 ~~requirements of this article shall not be liable for any~~
30 ~~taxes of the same type due prior to July 1, 2004. A taxpayer~~

1 ~~shall not be owed a refund under this article.~~

2 ~~(c) Financial hardship. A taxpayer otherwise eligible for~~
3 ~~amnesty who certifies on an amnesty return that making payment~~
4 ~~of the full amount of the liability for which amnesty is sought~~
5 ~~at the time such return is made would create a severe financial~~
6 ~~hardship for such taxpayer, shall retain eligibility for amnesty~~
7 ~~if:~~

8 ~~(1) Fifty percent or more of the amount due as computed~~
9 ~~is paid with the amnesty return or within the amnesty period.~~

10 ~~(2) The balance due, including interest under subsection~~
11 ~~(a) (2), is paid, in no more than two installments on or~~
12 ~~before the end of the amnesty period.~~

13 ~~Section 2904 F. Amnesty contingent on continued compliance.~~

14 ~~Notwithstanding any other provision of this article, the~~
15 ~~department may assess and collect from a taxpayer all penalties~~
16 ~~and interest waived through the tax amnesty program established~~
17 ~~in this article if, within two years after the end of the~~
18 ~~program, either of the following occurs:~~

19 ~~(1) the taxpayer granted amnesty under this article~~
20 ~~becomes delinquent for three consecutive periods in payment~~
21 ~~of taxes due or filing of returns required on a semimonthly,~~
22 ~~monthly, quarterly or other basis and the taxpayer has not~~
23 ~~contested the tax liability through a timely valid~~
24 ~~administrative or judicial appeal; or~~

25 ~~(2) the taxpayer granted amnesty under this article~~
26 ~~becomes delinquent and is eight or more months late in~~
27 ~~payment of taxes due or filing of returns on an annual basis~~
28 ~~and the taxpayer has not contested the liability through a~~
29 ~~timely valid administrative or judicial appeal.~~

30 ~~Section 2905 F. Limitation of deficiency assessment.~~

1 ~~If, subsequent to the amnesty period, the department issues a~~
2 ~~deficiency assessment with respect to a tax amnesty return, the~~
3 ~~department shall have the authority to impose penalties and to~~
4 ~~pursue a criminal action only with respect to the difference~~
5 ~~between the amount shown on that tax amnesty return and the~~
6 ~~current amount of tax.~~

7 ~~Section 2906 F. Overpayment of tax.~~

8 ~~Notwithstanding any other provisions of this article or any~~
9 ~~other act, if an overpayment of eligible tax is refunded or~~
10 ~~credited within 180 days after the tax amnesty return is filed~~
11 ~~or the eligible tax is paid, whichever is later, no interest~~
12 ~~shall be allowed on the overpayment.~~

13 ~~Section 2907 F. Previously paid interest and penalties.~~

14 ~~No refund or credit shall be allowed for any interest or~~
15 ~~penalty on eligible taxes paid to the department prior to the~~
16 ~~amnesty period.~~

17 ~~Section 2908 F. Proceedings relating to tax amnesty return~~
18 ~~barred.~~

19 ~~Participation in the program is conditioned upon the~~
20 ~~taxpayer's agreement that the right to protest or pursue an~~
21 ~~administrative or judicial proceeding with regard to tax amnesty~~
22 ~~returns filed under the program or to claim any refund of money~~
23 ~~paid under the program is barred.~~

24 ~~Section 2909 F. Undisclosed liabilities.~~

25 ~~Nothing in this article shall be construed to prohibit the~~
26 ~~department from instituting civil or criminal proceedings~~
27 ~~against any taxpayer with respect to any amount of tax that is~~
28 ~~not disclosed on the tax amnesty return or any amount disclosed~~
29 ~~on the amnesty return that is not paid.~~

30 ~~Section 2910 F. Duties of department.~~

1 ~~(a) Guidelines. The department shall develop guidelines to~~
2 ~~implement the provisions of this article. The guidelines must be~~
3 ~~published in the Pennsylvania Bulletin within 60 days of the~~
4 ~~effective date of this article and shall contain, but not be~~
5 ~~limited to, the following information:~~

6 ~~(1) An explanation of the program and the requirements~~
7 ~~for eligibility for the program.~~

8 ~~(2) The dates during which a tax amnesty return may be~~
9 ~~filed.~~

10 ~~(3) A specimen copy of the tax amnesty return.~~

11 ~~(b) Publicity. The department shall publicize the program~~
12 ~~to maximize public awareness of and participation in the~~
13 ~~program. The department shall coordinate to the highest degree~~
14 ~~possible its publicity efforts and other actions taken to~~
15 ~~implement this article.~~

16 ~~(c) Reports. The department shall issue reports to the~~
17 ~~General Assembly detailing program implementation. The reports~~
18 ~~shall contain the following information:~~

19 ~~(1) Within 30 days after the end of the amnesty period:~~

20 ~~(i) A detailed breakdown of the department's~~
21 ~~administrative costs in implementing the program.~~

22 ~~(ii) The total dollar amount of revenue collected by~~
23 ~~the program.~~

24 ~~(2) Within 180 days after the end of the amnesty period:~~

25 ~~(i) The number of tax amnesty returns filed and a~~
26 ~~breakdown of the number and dollar amount of revenue~~
27 ~~raised for each tax by calendar year during which the tax~~
28 ~~period ended. In addition, the gross revenues shall be~~
29 ~~broken down in the following categories:~~

30 ~~(A) Amounts represented by assessments~~

1 ~~receivable established by the department on or before~~
2 ~~the first day of the amnesty period.~~

3 ~~(B) All other amounts.~~

4 ~~(ii) The total dollar amount of penalties and~~
5 ~~interest waived under the program.~~

6 ~~(iii) The demographic characteristics of tax amnesty~~
7 ~~participants, including North American Industry~~
8 ~~Classification System codes of participants, type of~~
9 ~~taxpayer, consisting of individual, partnership,~~
10 ~~corporation or other entity, size of tax liability and~~
11 ~~geographical location.~~

12 ~~(d) Notification. The department shall notify in writing~~
13 ~~all known tax delinquents at the taxpayers' last known address~~
14 ~~of the existence of the tax amnesty program. The sole purpose of~~
15 ~~the letter sent by the department to taxpayers must be~~
16 ~~notification of the program.~~

17 ~~Section 2911 F. Method of payment.~~

18 ~~All tax payments under the program shall be made by certified~~
19 ~~check, money order, electronic transfer, credit card, cash or~~
20 ~~its equivalent.~~

21 ~~Section 2912 F. Use of revenue.~~

22 ~~All revenue generated by this article shall be deposited into~~
23 ~~a restricted revenue account in the General Fund. Revenue from~~
24 ~~the restricted revenue account shall be distributed as follows:~~

25 ~~(1) All money from General Fund sources shall be~~
26 ~~deposited in the General Fund no later than June 30, 2010,~~
27 ~~less repayment of any costs for administration of the program~~
28 ~~to the department.~~

29 ~~(2) All revenue from Motor License Fund sources shall be~~
30 ~~deposited in the Motor License Fund no later than June 30,~~

1 ~~2010.~~

2 ~~(3) All revenue from Liquid Fuels Tax Fund sources shall~~
3 ~~be deposited in the Liquid Fuels Tax Fund no later than June~~
4 ~~30, 2010.~~

5 ~~Section 2913 F. Additional penalty.~~

6 ~~(a) Penalty. Subject to the limitations provided under~~
7 ~~subsection (b), a penalty of 5% of the unpaid tax liability and~~
8 ~~penalties and interest shall be levied against a taxpayer~~
9 ~~subject to an eligible tax if the taxpayer had failed to remit~~
10 ~~an eligible tax due or had an unreported or underreported~~
11 ~~liability for an eligible tax on or after the first day~~
12 ~~following the end of the amnesty period.~~

13 ~~(b) Nonapplicability. The penalty provided in this section~~
14 ~~shall not apply to a taxpayer who:~~

15 ~~(1) has paid the liability in full or entered into a~~
16 ~~duly approved and executed deferred payment plan on or before~~
17 ~~the last day of the amnesty period; or~~

18 ~~(2) has filed a timely and valid administrative or~~
19 ~~judicial appeal contesting the liability on or before the~~
20 ~~last day of the amnesty period.~~

21 ~~(c) Penalty in addition. The penalty provided by this~~
22 ~~section shall be in addition to all other penalties provided by~~
23 ~~law.~~

24 ~~Section 2914 F. Construction.~~

25 ~~Except as expressly provided in this article, this article~~
26 ~~shall not:~~

27 ~~(1) be construed to relieve any person, corporation or~~
28 ~~other entity from the filing of returns or from any taxes,~~
29 ~~penalties or interest imposed by the provisions of any laws;~~

30 ~~(2) affect or terminate any petitions, investigations,~~

~~prosecutions, legal or otherwise, or other proceedings
pending under the provisions of any such laws; or~~

~~(3) prevent the commencement or further prosecution of
any proceedings by the proper authorities of the Commonwealth
for violation of any such laws or for the assessment,
settlement, collection or recovery of taxes, penalties or
interest due to the Commonwealth under any such laws.~~

~~Section 2915 F. Suspension of inconsistent acts.~~

~~All acts or parts of acts inconsistent with the provisions of
this article are suspended to the extent necessary to carry out
the provisions of this article.~~

~~Section 11.1. The act is amended by adding sections to read:~~

~~Section 3003.20. Penalties for Certain Corporate Officers.~~

~~If an officer of a corporation or association intentionally
fails to make reports to the Auditor General or to the
Department of Revenue, or successively to the Auditor General
and to the department, as required by law, for any two
successive tax years, the officer commits a misdemeanor and
shall, upon conviction, be sentenced to pay a fine of not less
than two thousand five hundred dollars (\$2,500) nor more than
five thousand dollars (\$5,000). This fine shall be in addition
to any fine or prison sentence under section 1704 of the act of
April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."~~

~~Section 3003.21. Further Examination of Books and Records.~~

~~(a) The Department of Revenue or any of its authorized agents
is authorized to examine the books, papers and records of any
taxpayer or other persons in order to verify the accuracy and
completeness of a return or report or, if no return or report is
made, to ascertain and assess any tax or other liability owed
the Commonwealth.~~

1 ~~(b) The department may determine, by desk, field or other~~
2 ~~audit, the amount of tax or other liability required to be paid~~
3 ~~to the Commonwealth. The department may determine the liability~~
4 ~~based upon the facts contained in the return or report being~~
5 ~~audited or upon other information in the department's~~
6 ~~possession. The department may determine the liability based~~
7 ~~upon a reasonable statistical sample or test audit performed in~~
8 ~~accordance with the regulations of the department if the~~
9 ~~individual being audited does not have complete records of~~
10 ~~transactions or if the review of each transaction or invoice~~
11 ~~would place an undue burden on the department to conduct an~~
12 ~~audit in a timely and efficient manner.~~

13 ~~(c) The taxpayer may challenge the accuracy of a statistical~~
14 ~~sample or test audit by providing clear and convincing evidence~~
15 ~~that the method used for the statistical sample or test audit is~~
16 ~~erroneous, lacks a rational basis or produces a different result~~
17 ~~when the complete records are considered.~~

18 ~~Section 3003.22. Table games.~~

19 ~~(a) Authorization fee. If table games are authorized to be~~
20 ~~operated in this Commonwealth, the Department of Revenue shall~~
21 ~~collect the following for deposit into the General Fund:~~

22 ~~(1) A non refundable authorization fee of \$20,000,000~~
23 ~~from a holder of a Category 1 slot machine license issued~~
24 ~~under 4 Pa.C.S. § 1302 (relating to Category 1 slot machine~~
25 ~~license) that has applied for authorization to operate table~~
26 ~~games.~~

27 ~~(2) A non refundable authorization fee of \$20,000,000~~
28 ~~from the holder of a Category 2 slot machine license issued~~
29 ~~under 4 Pa.C.S. § 1304 (relating to Category 2 slot machine~~
30 ~~license) that has applied for authorization to operate table~~

1 ~~games.~~

2 ~~(3) A non refundable authorization fee of \$7,500,000~~
3 ~~from the holder of a Category 3 slot machine license issued~~
4 ~~under 4 Pa.C.S. § 1305 (relating to Category 3 slot machine~~
5 ~~license) that has applied for authorization to operate table~~
6 ~~games.~~

7 ~~(b) Tax. If table games are authorized to be operated in~~
8 ~~this Commonwealth, the department shall collect from each slot~~
9 ~~machine licensee authorized to operate table games, a tax of 34%~~
10 ~~of the daily gross table game revenue from table games in~~
11 ~~operation at its licensed facility. The tax shall be collected~~
12 ~~in the same manner as the department collects taxes from slot~~
13 ~~machine licensees under 4 Pa.C.S. § 1403(b) (relating to~~
14 ~~establishment of State Gaming Fund and net slot machine revenue~~
15 ~~distribution), except that the tax described under this~~
16 ~~subsection shall be collected on a weekly basis.~~

17 ~~(c) Definitions. As used in this section, the following~~
18 ~~words and phrases shall have the meanings given to them in this~~
19 ~~subsection unless the context clearly indicates otherwise:~~

20 ~~"Licensed facility." As defined in 4 Pa.C.S. § 1103~~
21 ~~(relating to definitions).~~

22 ~~"Slot machine license." As defined in 4 Pa.C.S. § 1103~~
23 ~~(relating to definitions).~~

24 ~~"Slot machine licensee." As defined in 4 Pa.C.S. § 1103~~
25 ~~(relating to definitions).~~

26 ~~Section 12. Repeals are as follows:~~

27 ~~(1) The General Assembly declares that the repeal under~~
28 ~~paragraph (2) is necessary to effectuate the addition of~~
29 ~~Article XVII F of the act.~~

30 ~~(2) Article XX B of the act of March 10, 1949 (P.L.30,~~

1 ~~No.14), known as the Public School Code of 1949, is repealed.~~

2 ~~(3) The General Assembly declares that the repeal under~~
3 ~~paragraph (4) is necessary to effectuate the amendment or~~
4 ~~addition of section 1101(b.1), (c), (c.1), (e) and (j) of the~~
5 ~~act.~~

6 ~~(4) Article VIII F of the act of June 13, 1967 (P.L.31,~~
7 ~~No.21), known as the Public Welfare Code, is repealed.~~

8 ~~Section 13. The addition of Article XVII F of the act is a~~
9 ~~continuation of the act of March 10, 1949 (P.L.30, No.14), known~~
10 ~~as the Public School Code of 1949. Except as otherwise provided~~
11 ~~in Article XVII F of the act, all activities initiated under~~
12 ~~Article XX B of the Public School Code of 1949 shall continue~~
13 ~~and remain in full force and effect and may be completed under~~
14 ~~Article XVII F of the act. Orders, regulations, rules and~~
15 ~~decisions which were made under Article XX B of the Public~~
16 ~~School Code of 1949 and which are in effect on the effective~~
17 ~~date of section 12(2) of this act shall remain in full force and~~
18 ~~effect until revoked, vacated or modified under Article XVII F~~
19 ~~of the act.~~

20 ~~Section 14. This act shall apply as follows:~~

21 ~~(1) The amendment of section 319 of the act shall apply~~
22 ~~to tax returns due after May 31, 2011.~~

23 ~~(2) The amendment of the definition of "capital stock~~
24 ~~value" in section 601 of the act shall apply to taxable years~~
25 ~~beginning after December 31, 2009.~~

26 ~~(3) For purposes of determining the amount of any~~
27 ~~underpayment under section 3003.3(d) of the act, the~~
28 ~~amendment of section 602(h) of the act shall not be taken~~
29 ~~into account for any payment of estimated capital stock or~~
30 ~~franchise tax due prior to January 1, 2010.~~

1 ~~(4) The addition of section 1101(b.1) of the act shall~~
2 ~~apply to calendar years beginning after December 31, 2008,~~
3 ~~and to gross receipts received after September 30, 2009. The~~
4 ~~amendment of section 1101(c), (c.1), (e) and (j) of the act~~
5 ~~shall apply retroactively to October 1, 2009.~~

6 Section 15. ~~This act shall take effect as follows:~~

7 ~~(1) The following provisions shall take effect November~~
8 ~~1, 2009:~~

9 ~~(i) The amendment of section 1206 of the act.~~

10 ~~(ii) The amendment of section 1206.1 of the act.~~

11 ~~(iii) The amendment of section 1216 of the act.~~

12 ~~(iv) The amendment of section 1278 of the act.~~

13 ~~(2) The addition of Article XII A of the act shall take~~
14 ~~effect in 60 days.~~

15 ~~(2.1) The addition of Article XVI of the act shall take~~
16 ~~effect in 90 days.~~

17 ~~(3) The remainder of this act shall take effect~~
18 ~~immediately.~~

19 SECTION 1. SECTION 204 OF THE ACT OF MARCH 4, 1971 (P.L.6,
20 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED BY
21 ADDING CLAUSES TO READ:

22 SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY
23 SECTION 202 SHALL NOT BE IMPOSED UPON ANY OF THE FOLLOWING:

24 * * *

25 (67) THE SALE AT RETAIL OR USE OF REPAIR OR REPLACEMENT
26 PARTS, INCLUDING THE INSTALLATION OF THOSE PARTS, EXCLUSIVELY
27 FOR USE IN HELICOPTERS AND SIMILAR ROTORCRAFT OR IN OVERHAULING
28 OR REBUILDING OF HELICOPTERS AND SIMILAR ROTORCRAFT OR
29 HELICOPTER AND SIMILAR ROTORCRAFT COMPONENTS.

30 (68) THE SALE AT RETAIL OR USE OF HELICOPTERS AND SIMILAR

1 ROTORCRAFT.

2 SECTION 2. SECTION 217 OF THE ACT, AMENDED JULY 1, 1985
3 (P.L.78, NO.29), IS AMENDED TO READ:

4 SECTION 217. TIME FOR FILING RETURNS.--(A) QUARTERLY [AND],
5 MONTHLY AND SEMI-MONTHLY RETURNS:

6 (1) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE AND
7 IN EACH YEAR THEREAFTER A RETURN SHALL BE FILED QUARTERLY BY
8 EVERY LICENSEE ON OR BEFORE THE TWENTIETH DAY OF APRIL, JULY,
9 OCTOBER AND JANUARY FOR THE THREE MONTHS ENDING THE LAST DAY OF
10 MARCH, JUNE, SEPTEMBER AND DECEMBER.

11 (2) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE,
12 AND IN EACH YEAR THEREAFTER, A RETURN SHALL BE FILED MONTHLY
13 WITH RESPECT TO EACH MONTH BY EVERY LICENSEE WHOSE TOTAL TAX
14 REPORTED, OR IN THE EVENT NO REPORT IS FILED, THE TOTAL TAX
15 WHICH SHOULD HAVE BEEN REPORTED, FOR THE THIRD CALENDAR QUARTER
16 OF THE PRECEDING YEAR EQUALS OR EXCEEDS SIX HUNDRED DOLLARS
17 (\$600) AND IS LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$25,000).
18 SUCH RETURNS SHALL BE FILED ON OR BEFORE THE TWENTIETH DAY OF
19 THE NEXT SUCCEEDING MONTH WITH RESPECT TO WHICH THE RETURN IS
20 MADE. ANY LICENSEE REQUIRED TO FILE MONTHLY RETURNS HEREUNDER
21 SHALL BE RELIEVED FROM FILING QUARTERLY RETURNS.

22 (3) AFTER MAY 31, 2011, A RETURN SHALL BE FILED SEMI-MONTHLY
23 WITH RESPECT TO EACH MONTH BY EVERY LICENSEE WHOSE TOTAL TAX
24 REPORTED, OR IN THE EVENT NO REPORT IS FILED, THE TOTAL TAX
25 WHICH SHOULD HAVE BEEN REPORTED, FOR THE THIRD CALENDAR QUARTER
26 OF THE PRECEDING YEAR EQUALS OR EXCEEDS TWENTY-FIVE THOUSAND
27 DOLLARS (\$25,000). FOR THE PERIOD FROM THE FIRST DAY OF THE
28 MONTH TO THE FIFTEENTH DAY OF THE MONTH, THE RETURNS SHALL BE
29 FILED ON OR BEFORE THE TWENTY-FIFTH DAY OF THE MONTH. FOR THE
30 PERIOD FROM THE SIXTEENTH DAY OF THE MONTH TO THE LAST DAY OF

1 THE MONTH, THE RETURNS SHALL BE FILED ON OR BEFORE THE TENTH DAY
2 OF THE NEXT SUCCEEDING MONTH WITH RESPECT TO WHICH THE RETURN IS
3 MADE. ANY LICENSEE REQUIRED TO FILE SEMI-MONTHLY RETURNS UNDER
4 THIS SECTION SHALL BE RELIEVED FROM FILING MONTHLY OR QUARTERLY
5 RETURNS.

6 (B) ANNUAL RETURNS. FOR THE CALENDAR YEAR 1971, AND FOR EACH
7 YEAR THEREAFTER, NO ANNUAL RETURN SHALL BE FILED, EXCEPT AS MAY
8 BE REQUIRED BY RULES AND REGULATIONS OF THE DEPARTMENT
9 PROMULGATED AND PUBLISHED AT LEAST SIXTY DAYS PRIOR TO THE END
10 OF THE YEAR WITH RESPECT TO WHICH THE RETURNS ARE MADE. WHERE
11 SUCH ANNUAL RETURNS ARE REQUIRED LICENSEES SHALL NOT BE REQUIRED
12 TO FILE SUCH RETURNS PRIOR TO THE TWENTIETH DAY OF THE YEAR
13 SUCCEEDING THE YEAR WITH RESPECT TO WHICH THE RETURNS ARE MADE.

14 (C) OTHER RETURNS. ANY PERSON, OTHER THAN A LICENSEE, LIABLE
15 TO PAY TO THE DEPARTMENT ANY TAX UNDER THIS ARTICLE, SHALL FILE
16 A RETURN ON OR BEFORE THE TWENTIETH DAY OF THE MONTH SUCCEEDING
17 THE MONTH IN WHICH SUCH PERSON BECOMES LIABLE FOR THE TAX.

18 (D) SMALL TAXPAYERS. THE DEPARTMENT, BY REGULATION, MAY
19 WAIVE THE REQUIREMENT FOR THE FILING OF QUARTERLY RETURN IN THE
20 CASE OF ANY LICENSEE WHOSE INDIVIDUAL TAX COLLECTIONS DO NOT
21 EXCEED SEVENTY-FIVE DOLLARS (\$75) PER CALENDAR QUARTER AND MAY
22 PROVIDE FOR REPORTING ON A LESS FREQUENT BASIS IN SUCH CASES.

23 SECTION 3. SECTION 222 OF THE ACT IS AMENDED TO READ:

24 SECTION 222. TIME OF PAYMENT.--(A) MONTHLY, [BIMONTHLY]
25 SEMI-MONTHLY AND QUARTERLY PAYMENTS. THE TAX IMPOSED BY THIS
26 ARTICLE AND INCURRED OR COLLECTED BY A LICENSEE SHALL BE DUE AND
27 PAYABLE BY THE LICENSEE ON THE DAY THE RETURN IS REQUIRED TO BE
28 FILED UNDER THE PROVISIONS OF SECTION 217 AND SUCH PAYMENT MUST
29 ACCOMPANY THE RETURN FOR SUCH PRECEDING PERIOD,

30 (B) ANNUAL PAYMENTS. IF THE AMOUNT OF TAX DUE FOR THE

1 PRECEDING YEAR AS SHOWN BY THE ANNUAL RETURN OF ANY TAXPAYER IS
2 GREATER THAN THE AMOUNT ALREADY PAID BY HIM IN CONNECTION WITH
3 HIS MONTHLY, SEMI-MONTHLY OR QUARTERLY RETURNS HE SHALL SEND
4 WITH SUCH ANNUAL RETURN A REMITTANCE FOR THE UNPAID AMOUNT OF
5 TAX FOR THE YEAR.

6 (C) OTHER PAYMENTS. ANY PERSON OTHER THAN A LICENSEE LIABLE
7 TO PAY ANY TAX UNDER THIS ARTICLE SHALL REMIT THE TAX AT THE
8 TIME OF FILING THE RETURN REQUIRED BY THIS ARTICLE.

9 SECTION 4. SECTION 303(A.6) OF THE ACT, ADDED JULY 6, 2006
10 (P.L.319, NO.67), IS AMENDED TO READ:

11 SECTION 303. CLASSES OF INCOME.--* * *

12 (A.6) EXCEPT AS PROVIDED IN THIS ARTICLE AND WITHOUT REGARD
13 TO SECTIONS 220(F)(4) AND 223(F)(4) OF THE INTERNAL REVENUE CODE
14 OF 1986, THE REQUIREMENTS OF SECTIONS 106(B) AND (D), 220 AND
15 223 OF THE INTERNAL REVENUE CODE OF 1986[, AS AMENDED TO JANUARY
16 1, 2005,] SHALL BE APPLICABLE.

17 * * *

18 SECTION 5. SECTION 315.2 OF THE ACT, AMENDED JULY 9, 2008
19 (P.L.922, NO.66), IS REENACTED TO READ:

20 SECTION 315.2. CONTRIBUTIONS TO BREAST AND CERVICAL CANCER
21 RESEARCH.--(A) THE DEPARTMENT SHALL PROVIDE A SPACE ON THE
22 PENNSYLVANIA INDIVIDUAL INCOME TAX RETURN FORM WHEREBY AN
23 INDIVIDUAL MAY VOLUNTARILY DESIGNATE A CONTRIBUTION OF ANY
24 AMOUNT DESIRED TO BE UTILIZED FOR BREAST AND CERVICAL CANCER
25 RESEARCH.

26 (B) THE AMOUNT SO DESIGNATED ON THE INDIVIDUAL INCOME TAX
27 RETURN FORM SHALL BE DEDUCTED FROM THE TAX REFUND TO WHICH THE
28 INDIVIDUAL IS ENTITLED AND SHALL NOT CONSTITUTE A CHARGE AGAINST
29 THE INCOME TAX REVENUES DUE TO THE COMMONWEALTH.

30 (C) THE DEPARTMENT SHALL DETERMINE ANNUALLY THE TOTAL AMOUNT

1 DESIGNATED UNDER THIS SECTION, LESS REASONABLE ADMINISTRATIVE
2 COSTS, AND SHALL REPORT THE AMOUNT TO THE STATE TREASURER WHO
3 SHALL TRANSFER THE AMOUNT FROM THE GENERAL FUND TO THE
4 PENNSYLVANIA BREAST CANCER COALITION.

5 (D) THE DEPARTMENT SHALL PROVIDE ADEQUATE INFORMATION
6 CONCERNING THE CHECKOFF FOR BREAST AND CERVICAL CANCER RESEARCH
7 IN ITS INSTRUCTIONS WHICH ACCOMPANY STATE INCOME TAX RETURN
8 FORMS. THE INFORMATION CONCERNING THE CHECKOFF SHALL INCLUDE THE
9 LISTING OF AN ADDRESS FURNISHED BY THE DEPARTMENT OF HEALTH TO
10 WHICH CONTRIBUTIONS MAY BE SENT BY TAXPAYERS WISHING TO
11 CONTRIBUTE TO THIS EFFORT BUT WHO DO NOT RECEIVE REFUNDS.
12 ADDITIONALLY, THE PENNSYLVANIA BREAST CANCER COALITION SHALL BE
13 CHARGED WITH THE DUTY TO CONDUCT A PUBLIC INFORMATION CAMPAIGN
14 ON THE AVAILABILITY OF THIS OPPORTUNITY TO PENNSYLVANIA
15 TAXPAYERS.

16 (E) THE PENNSYLVANIA BREAST CANCER COALITION SHALL REPORT
17 ANNUALLY TO THE RESPECTIVE COMMITTEES OF THE SENATE AND THE
18 HOUSE OF REPRESENTATIVES WHICH HAVE JURISDICTION OVER HEALTH
19 MATTERS ON THE AMOUNT RECEIVED VIA THE CHECKOFF PLAN AND HOW THE
20 FUNDS WERE UTILIZED.

21 (F) THE GENERAL ASSEMBLY MAY, FROM TIME TO TIME, APPROPRIATE
22 FUNDS FOR BREAST AND CERVICAL CANCER RESEARCH.

23 SECTION 5.1. SECTION 315.7 OF THE ACT, ADDED NOVEMBER 23,
24 2004 (P.L.935, NO.133), IS REENACTED TO READ:

25 SECTION 315.7. CONTRIBUTIONS FOR JUVENILE DIABETES CURE
26 RESEARCH.-- (A) THE DEPARTMENT SHALL PROVIDE A SPACE ON THE
27 PENNSYLVANIA INDIVIDUAL INCOME TAX RETURN FORM WHEREBY AN
28 INDIVIDUAL MAY VOLUNTARILY DESIGNATE A CONTRIBUTION OF ANY
29 AMOUNT DESIRED TO BE UTILIZED FOR JUVENILE DIABETES CURE
30 RESEARCH RELATED TO:

- 1 (1) RESTORING NORMAL BLOOD SUGAR LEVELS;
- 2 (2) PREVENTING AND REVERSING COMPLICATIONS; OR
- 3 (3) PREVENTING JUVENILE DIABETES.

4 (B) THE AMOUNT SO DESIGNATED ON THE PENNSYLVANIA INDIVIDUAL
5 INCOME TAX RETURN FORM SHALL BE DEDUCTED FROM THE TAX REFUND TO
6 WHICH THE INDIVIDUAL IS ENTITLED AND SHALL NOT CONSTITUTE A
7 CHARGE AGAINST THE INCOME TAX REVENUES DUE TO THE COMMONWEALTH.

8 (C) (1) THE DEPARTMENT SHALL DETERMINE ANNUALLY THE TOTAL
9 AMOUNT DESIGNATED UNDER THIS SECTION, LESS REASONABLE
10 ADMINISTRATIVE COSTS, AND SHALL REPORT THE AMOUNT TO THE STATE
11 TREASURER, WHO SHALL TRANSFER THE AMOUNT TO A RESTRICTED REVENUE
12 ACCOUNT WITHIN THE GENERAL FUND TO BE USED BY THE DEPARTMENT OF
13 HEALTH FOR AIDING JUVENILE DIABETES CURE RESEARCH.

14 (2) THE DEPARTMENT OF HEALTH SHALL DISTRIBUTE THE AMOUNTS TO
15 INSTITUTIONS OF HIGHER EDUCATION AND INDEPENDENT RESEARCH
16 INSTITUTES OF THIS COMMONWEALTH TO SUPPORT PROJECTS THAT HAVE
17 BEEN SUBJECT TO AN ESTABLISHED PEER AND SCIENTIFIC REVIEW
18 PROCESS IDENTICAL OR SIMILAR TO THE NATIONAL INSTITUTES OF
19 HEALTH REVIEW SYSTEM.

20 (D) THE DEPARTMENT SHALL PROVIDE ADEQUATE INFORMATION
21 CONCERNING THE CHECKOFF FOR JUVENILE DIABETES CURE RESEARCH IN
22 ITS INSTRUCTIONS WHICH ACCOMPANY THE PENNSYLVANIA INCOME TAX
23 RETURN FORMS. THE INFORMATION CONCERNING THE CHECKOFF SHALL
24 INCLUDE THE LISTING OF AN ADDRESS FURNISHED BY THE DEPARTMENT OF
25 HEALTH TO WHICH CONTRIBUTIONS MAY BE SENT BY TAXPAYERS WISHING
26 TO CONTRIBUTE TO THIS EFFORT BUT WHO DO NOT RECEIVE REFUNDS.

27 (E) THE DEPARTMENT OF HEALTH SHALL REPORT ANNUALLY TO THE
28 RESPECTIVE COMMITTEES OF THE SENATE AND THE HOUSE OF
29 REPRESENTATIVES WHICH HAVE JURISDICTION OVER HEALTH MATTERS ON
30 THE AMOUNT RECEIVED VIA THE CHECKOFF PLAN AND HOW THE FUNDS WERE

1 UTILIZED.

2 SECTION 5.2. SECTION 315.9 OF THE ACT, AMENDED JULY 25, 2007
3 (P.L.373, NO.55), IS AMENDED TO READ:

4 SECTION 315.9. OPERATIONAL PROVISIONS.--[(A) EXCEPT FOR THE
5 CHECKOFF ESTABLISHED UNDER SECTIONS 315.2, 315.6 AND 315.7 AND
6 EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (B), THE CHECKOFFS
7 ESTABLISHED UNDER THIS PART SHALL APPLY THROUGH TAXABLE YEARS
8 ENDING DECEMBER 31, 2007.]

9 (B) [ANY] EXCEPT AS SET FORTH IN SUBSECTION (B.1), ANY
10 CHECKOFF ESTABLISHED UNDER THIS PART AND APPLICABLE FOR THE
11 FIRST TIME IN A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, [2003]
12 2009, SHALL EXPIRE FOUR YEARS AFTER THE BEGINNING OF SUCH FIRST
13 TAXABLE YEAR.

14 (B.1) NOTWITHSTANDING SUBSECTION (B), THE CHECKOFFS
15 ESTABLISHED IN SECTIONS 315.2 AND 315.7 SHALL NOT EXPIRE.

16 (C) SECTIONS 315.3 [AND], 315.4 AND 315.8 SHALL EXPIRE
17 JANUARY 1, [2010] 2014.

18 SECTION 6. SECTION 319 OF THE ACT, REPEALED AND ADDED AUGUST
19 31, 1971 (P.L.362, NO.93), IS AMENDED TO READ:

20 SECTION 319. [MONTHLY, SEMI-MONTHLY AND QUARTERLY] PAYMENT
21 OF TAXES WITHHELD.--EVERY EMPLOYER WITHHOLDING TAX UNDER THIS
22 ARTICLE SHALL PAY OVER TO THE DEPARTMENT OR TO A DEPOSITORY
23 DESIGNATED BY IT THE TAX REQUIRED TO BE DEDUCTED AND WITHHELD
24 UNDER THIS ARTICLE.

25 (1) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
26 WITHHELD BY ANY EMPLOYER FOR [EACH QUARTERLY PERIOD] A CALENDAR
27 YEAR CAN REASONABLY BE EXPECTED TO BE LESS THAN [THREE HUNDRED
28 DOLLARS (\$300)] TWELVE HUNDRED DOLLARS (\$1,200), SUCH EMPLOYER
29 SHALL FILE A RETURN AND PAY THE TAX ON OR BEFORE THE LAST DAY
30 FOR FILING A QUARTERLY RETURN UNDER SECTION 318.

1 (2) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
2 WITHHELD BY ANY EMPLOYER FOR [EACH QUARTERLY PERIOD] A CALENDAR
3 YEAR CAN REASONABLY BE EXPECTED TO BE [THREE HUNDRED DOLLARS
4 (\$300) OR MORE BUT LESS THAN ONE THOUSAND DOLLARS (\$1,000)]
5 TWELVE HUNDRED DOLLARS (\$1,200) OR MORE BUT LESS THAN FOUR
6 THOUSAND DOLLARS (\$4,000), SUCH EMPLOYER SHALL PAY THE TAX
7 MONTHLY, ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH SUCCEEDING
8 THE MONTHS OF JANUARY TO NOVEMBER, INCLUSIVE, AND ON OR BEFORE
9 THE LAST DAY OF JANUARY FOLLOWING THE MONTH OF DECEMBER.

10 (3) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
11 WITHHELD BY ANY EMPLOYER FOR [EACH QUARTERLY PERIOD] A CALENDAR
12 YEAR CAN REASONABLY BE EXPECTED TO BE [ONE THOUSAND DOLLARS
13 (\$1,000) OR MORE] FOUR THOUSAND DOLLARS (\$4,000) OR MORE BUT
14 LESS THAN TWENTY THOUSAND DOLLARS (\$20,000), SUCH EMPLOYER SHALL
15 PAY THE TAX SEMI-MONTHLY, WITHIN THREE BANKING DAYS AFTER THE
16 CLOSE OF THE SEMI-MONTHLY PERIOD.

17 (4) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
18 WITHHELD BY ANY EMPLOYER FOR A CALENDAR YEAR CAN REASONABLY BE
19 EXPECTED TO BE TWENTY THOUSAND DOLLARS (\$20,000) OR MORE, SUCH
20 EMPLOYER SHALL PAY THE TAX ON THE WEDNESDAY AFTER PAYDAY IF THE
21 PAYDAY FALLS ON A WEDNESDAY, THURSDAY OR FRIDAY AND ON THE
22 FRIDAY AFTER PAYDAY IF THE PAYDAY FALLS ON A SATURDAY, SUNDAY,
23 MONDAY OR TUESDAY.

24 NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY,
25 WHENEVER ANY EMPLOYER FAILS TO DEDUCT OR TRUTHFULLY ACCOUNT FOR
26 OR PAY OVER THE TAX WITHHELD OR FILE RETURNS AS PRESCRIBED BY
27 THIS ARTICLE, THE DEPARTMENT MAY SERVE A NOTICE ON SUCH EMPLOYER
28 REQUIRING HIM TO WITHHOLD TAXES WHICH ARE REQUIRED TO BE
29 DEDUCTED UNDER THIS ARTICLE AND DEPOSIT SUCH TAXES IN A BANK
30 APPROVED BY THE DEPARTMENT IN A SEPARATE ACCOUNT IN TRUST FOR

1 AND PAYABLE TO THE DEPARTMENT, AND TO KEEP THE AMOUNT OF SUCH
2 TAX IN SUCH ACCOUNT UNTIL PAYMENT OVER TO THE DEPARTMENT. SUCH
3 NOTICE SHALL REMAIN IN EFFECT UNTIL A NOTICE OF CANCELLATION IS
4 SERVED ON THE EMPLOYER BY THE DEPARTMENT.

5 SECTION 7. SECTION 401(3)2(A)(9) AND 4(C) OF THE ACT,
6 AMENDED JULY 12, 2006 (P.L.1137, NO.116), ARE AMENDED TO READ:

7 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND
8 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING
9 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
10 CLEARLY INDICATES A DIFFERENT MEANING:

11 * * *

12 (3) "TAXABLE INCOME." * * *

13 2. IN CASE THE ENTIRE BUSINESS OF ANY CORPORATION, OTHER
14 THAN A CORPORATION ENGAGED IN DOING BUSINESS AS A REGULATED
15 INVESTMENT COMPANY AS DEFINED BY THE INTERNAL REVENUE CODE OF
16 1986, IS NOT TRANSACTED WITHIN THIS COMMONWEALTH, THE TAX
17 IMPOSED BY THIS ARTICLE SHALL BE BASED UPON SUCH PORTION OF THE
18 TAXABLE INCOME OF SUCH CORPORATION FOR THE FISCAL OR CALENDAR
19 YEAR, AS DEFINED IN SUBCLAUSE 1 HEREOF, AND MAY BE DETERMINED AS
20 FOLLOWS:

21 (A) DIVISION OF INCOME.

22 * * *

23 (9) (A) EXCEPT AS PROVIDED IN SUBPARAGRAPH (B):

24 (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2007, ALL
25 BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
26 MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
27 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS THREE TIMES THE
28 SALES FACTOR AND THE DENOMINATOR OF WHICH IS FIVE.

29 (II) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006,
30 ALL BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY

1 MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
2 THE SUM OF FIFTEEN TIMES THE PROPERTY FACTOR, FIFTEEN TIMES THE
3 PAYROLL FACTOR AND SEVENTY TIMES THE SALES FACTOR AND THE
4 DENOMINATOR OF WHICH IS ONE HUNDRED.

5 (III) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2008,
6 ALL BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
7 MULTIPLYING THE INCOME BY A FRACTION: THE NUMERATOR OF WHICH IS
8 THE SUM OF EIGHT AND A HALF TIMES THE PROPERTY FACTOR, EIGHT AND
9 A HALF TIMES THE PAYROLL FACTOR AND EIGHTY-THREE TIMES THE SALES
10 FACTOR; AND THE DENOMINATOR OF WHICH IS ONE HUNDRED.

11 (IV) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2009,
12 ALL BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
13 MULTIPLYING THE INCOME BY A FRACTION: THE NUMERATOR OF WHICH IS
14 THE SUM OF FIVE TIMES THE PROPERTY FACTOR, FIVE TIMES THE
15 PAYROLL FACTOR AND NINETY TIMES THE SALES FACTOR; AND THE
16 DENOMINATOR OF WHICH IS ONE HUNDRED.

17 (B) FOR PURPOSES OF APPORTIONMENT OF THE CAPITAL STOCK -
18 FRANCHISE TAX AS PROVIDED IN SECTION 602 OF ARTICLE VI OF THIS
19 ACT, THE APPORTIONMENT FRACTION SHALL BE THE PROPERTY FACTOR
20 PLUS THE PAYROLL FACTOR PLUS THE SALES FACTOR AS THE NUMERATOR,
21 AND THE DENOMINATOR SHALL BE THREE.

22 * * *

23 4. * * *

24 (C) (1) THE NET LOSS DEDUCTION SHALL BE THE LESSER OF:

25 (A) (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2007,
26 TWO MILLION DOLLARS (\$2,000,000);

27 (II) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006,
28 THE GREATER OF TWELVE AND ONE-HALF PER CENT OF TAXABLE INCOME AS
29 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR
30 THREE MILLION DOLLARS (\$3,000,000); [OR]

1 (III) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2008,
2 THE GREATER OF FIFTEEN PER CENT OF TAXABLE INCOME AS DETERMINED
3 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR THREE
4 MILLION DOLLARS (\$3,000,000);

5 (IV) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2009,
6 THE GREATER OF TWENTY PER CENT OF TAXABLE INCOME AS DETERMINED
7 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR THREE
8 MILLION DOLLARS (\$3,000,000); OR

9 (B) THE AMOUNT OF THE NET LOSS OR LOSSES WHICH MAY BE
10 CARRIED OVER TO THE TAXABLE YEAR OR TAXABLE INCOME AS DETERMINED
11 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2.

12 (1.1) IN NO EVENT SHALL THE NET LOSS DEDUCTION INCLUDE MORE
13 THAN FIVE HUNDRED THOUSAND DOLLARS (\$500,000), IN THE AGGREGATE,
14 OF NET LOSSES FROM TAXABLE YEARS 1988 THROUGH 1994.

15 (2) (A) A NET LOSS FOR A TAXABLE YEAR MAY ONLY BE CARRIED
16 OVER PURSUANT TO THE FOLLOWING SCHEDULE:

TAXABLE YEAR	CARRYOVER
1981	1 TAXABLE YEAR
1982	2 TAXABLE YEARS
1983-1987	3 TAXABLE YEARS
1988	2 TAXABLE YEARS PLUS 1 TAXABLE YEAR
	STARTING WITH THE 1995 TAXABLE YEAR
1989	1 TAXABLE YEAR PLUS 2 TAXABLE YEARS
	STARTING WITH THE 1995 TAXABLE YEAR
1990-1993	3 TAXABLE YEARS
	STARTING WITH THE

1		1995 TAXABLE YEAR
2	1994	1 TAXABLE YEAR
3	1995-1997	10 TAXABLE YEARS
4	1998 AND THEREAFTER	20 TAXABLE YEARS

5 (B) THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE
6 EARLIEST TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS
7 SCHEDULE. THE TOTAL NET LOSS DEDUCTION ALLOWED IN ANY TAXABLE
8 YEAR SHALL NOT EXCEED:

9 (I) TWO MILLION DOLLARS (\$2,000,000) FOR TAXABLE YEARS
10 BEGINNING BEFORE JANUARY 1, 2007.

11 (II) THE GREATER OF TWELVE AND ONE-HALF PER CENT OF THE
12 TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF
13 APPLICABLE, SUBCLAUSE 2 OR THREE MILLION DOLLARS (\$3,000,000)
14 FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006.

15 (III) THE GREATER OF FIFTEEN PER CENT OF THE TAXABLE INCOME
16 AS DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2
17 OR THREE MILLION DOLLARS (\$3,000,000) FOR TAXABLE YEARS
18 BEGINNING AFTER DECEMBER 31, 2008.

19 (IV) THE GREATER OF TWENTY PER CENT OF THE TAXABLE INCOME AS
20 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR
21 THREE MILLION DOLLARS (\$3,000,000) FOR TAXABLE YEARS BEGINNING
22 AFTER DECEMBER 31, 2009.

23 * * *

24 SECTION 7.1. THE DEFINITION OF "CAPITAL STOCK VALUE" IN
25 SECTION 601 OF THE ACT, AMENDED JULY 6, 2006 (P.L.319, NO.67),
26 IS AMENDED TO READ:

27 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
28 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE
29 THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE
30 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

1 * * *

2 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
3 FOLLOWING FORMULA: THE PRODUCT OF ONE-HALF TIMES THE SUM OF THE
4 AVERAGE NET INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF
5 PER CENT PLUS SEVENTY-FIVE PER CENT OF NET WORTH, FROM WHICH
6 PRODUCT SHALL BE SUBTRACTED [ONE HUNDRED FIFTY THOUSAND DOLLARS
7 (\$150,000)] ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000), THE
8 ALGEBRAIC EQUIVALENT OF WHICH IS

9
$$(.5 \times (\text{AVERAGE NET INCOME} / .095 + (.75)$$

10
$$(\text{NET WORTH}))) - [\$150,000] \underline{\$160,000}$$

11 * * *

12 SECTION 8. SECTION 602(H) OF THE ACT, AMENDED JULY 6, 2006
13 (P.L.319, NO.67), IS AMENDED TO READ:

14 SECTION 602. IMPOSITION OF TAX.--* * *

15 (H) THE RATE OF TAX FOR PURPOSES OF THE CAPITAL STOCK AND
16 FRANCHISE TAX FOR TAXABLE YEARS BEGINNING WITHIN THE DATES SET
17 FORTH SHALL BE AS FOLLOWS:

18 TAXABLE YEAR	REGULAR RATE	SURTAX	TOTAL RATE
19 JANUARY 1, 1971, TO			
20 DECEMBER 31, 1986	10 MILLS	0	10 MILLS
21 JANUARY 1, 1987, TO			
22 DECEMBER 31, 1990	9 MILLS	0	9 MILLS
23 JANUARY 1, 1988, TO			
24 DECEMBER 31, 1990	9.5 MILLS	0	9.5 MILLS
25 JANUARY 1, 1991, TO			
26 DECEMBER 31, 1991	11 MILLS	2 MILLS	13 MILLS
27 JANUARY 1, 1992, TO			
28 DECEMBER 31, 1997	11 MILLS	1.75 MILLS	12.75 MILLS
29 JANUARY 1, 1998, TO			
30 DECEMBER 31, 1998	11 MILLS	.99 MILLS	11.99 MILLS

1	JANUARY 1, 1999, TO		
2	DECEMBER 31, 1999	10.99 MILLS 0	10.99 MILLS
3	JANUARY 1, 2000, TO		
4	DECEMBER 31, 2000	8.99 MILLS 0	8.99 MILLS
5	JANUARY 1, 2001, TO		
6	DECEMBER 31, 2001	7.49 MILLS 0	7.49 MILLS
7	JANUARY 1, 2002, TO		
8	DECEMBER 31, 2003	7.24 MILLS 0	7.24 MILLS
9	JANUARY 1, 2004, TO		
10	DECEMBER 31, 2004	6.99 MILLS 0	6.99 MILLS
11	JANUARY 1, 2005, TO		
12	DECEMBER 31, 2005	5.99 MILLS 0	5.99 MILLS
13	JANUARY 1, 2006, TO		
14	DECEMBER 31, 2006	4.89 MILLS 0	4.89 MILLS
15	JANUARY 1, 2007, TO		
16	DECEMBER 31, 2007	3.89 MILLS 0	3.89 MILLS
17	[JANUARY 1, 2008, TO		
18	DECEMBER 31, 2008	2.89 MILLS 0	2.89 MILLS
19	JANUARY 1, 2009, TO		
20	DECEMBER 31, 2009	1.89 MILLS 0	1.89 MILLS
21	JANUARY 1, 2010, TO		
22	DECEMBER 31, 2010	.89 MILLS 0	.89 MILLS]
23	<u>JANUARY 1, 2008, TO</u>		
24	<u>DECEMBER 31, 2011</u>	<u>2.89 MILLS 0</u>	<u>2.89 MILLS</u>
25	<u>JANUARY 1, 2012, TO</u>		
26	<u>DECEMBER 31, 2012</u>	<u>1.89 MILLS 0</u>	<u>1.89 MILLS</u>
27	<u>JANUARY 1, 2013, TO</u>		
28	<u>DECEMBER 31, 2013</u>	<u>.89 MILLS 0</u>	<u>.89 MILLS</u>

29 * * *

30 SECTION 9. SECTION 607 OF THE ACT, AMENDED DECEMBER 23, 2003

1 (P.L.250, NO.46), IS AMENDED TO READ:

2 SECTION 607. EXPIRATION.--THIS ARTICLE SHALL EXPIRE FOR
3 TAXABLE YEARS BEGINNING AFTER DECEMBER 31, [2010] 2013.

4 SECTION 9.1. SECTION 1101(C), (C.1), (E) AND (J) OF THE ACT,
5 AMENDED OR ADDED AUGUST 4, 1991 (P.L.97, NO.22), DECEMBER 23,
6 2003 (P.L.250, NO.46) AND OCTOBER 18, 2006 (P.L.1149, NO.119),
7 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
8 READ:

9 SECTION 1101. IMPOSITION OF TAX.--* * *

10 (B.1) MANAGED CARE ORGANIZATIONS.--EVERY MANAGED CARE
11 ORGANIZATION NOW OR HEREAFTER INCORPORATED OR ORGANIZED BY OR
12 UNDER ANY LAW OF THE COMMONWEALTH OR A POLITICAL SUBDIVISION
13 THEREOF, OR NOW OR HEREAFTER ORGANIZED OR INCORPORATED BY ANY
14 OTHER STATE OR BY THE UNITED STATES OR ANY FOREIGN GOVERNMENT
15 AND DOING BUSINESS IN THIS COMMONWEALTH THAT IS A PARTY TO A
16 MEDICAID MANAGED CARE CONTRACT WITH THE DEPARTMENT OF PUBLIC
17 WELFARE, SHALL PAY TO THE STATE TREASURER, THROUGH THE
18 DEPARTMENT OF REVENUE, A TAX OF 59 MILLS UPON EACH DOLLAR OF THE
19 GROSS RECEIPTS RECEIVED FROM PAYMENTS PURSUANT TO A MEDICAID
20 MANAGED CARE CONTRACT WITH THE DEPARTMENT OF PUBLIC WELFARE
21 THROUGH ITS MEDICAL ASSISTANCE PROGRAM UNDER SUBCHAPTER XIX OF
22 THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 1396 ET
23 SEQ.). THIS SUBSECTION SHALL ALSO APPLY TO A MEDICAID MANAGED
24 CARE ORGANIZATION, AS DEFINED IN SECTION 1903(M)(1)(A) OF THE
25 SOCIAL SECURITY ACT (42 U.S.C. § 1396B(M)(1)(A)); TO A COUNTY
26 MEDICAID MANAGED CARE ORGANIZATION; AND TO A PERMITTED ASSIGNEE
27 OF A MEDICAID MANAGED CARE CONTRACT. THIS SUBSECTION SHALL NOT
28 APPLY TO AN ASSIGNOR OF A MEDICAID MANAGED CARE CONTRACT. THE
29 REVENUE COLLECTED UNDER THIS SUBSECTION SHALL BE PLACED IN A
30 RESTRICTED RECEIPTS ACCOUNT IN THE GENERAL FUND AND IS

1 APPROPRIATED AS AN AUGMENTATION TO THE CAPITATION APPROPRIATION
2 OF THE DEPARTMENT OF PUBLIC WELFARE. IF THE CENTERS FOR MEDICARE
3 AND MEDICAID SERVICES OF THE DEPARTMENT OF HEALTH AND HUMAN
4 SERVICES ISSUES A WRITTEN DETERMINATION OF A DEFERRAL,
5 DISALLOWANCE OR DISAPPROVAL OF FEDERAL FINANCIAL PARTICIPATION
6 ON THE GROUNDS THAT THE TAX IMPOSED UNDER THIS SUBSECTION
7 CONSTITUTES AN IMPERMISSIBLE HEALTH CARE-RELATED TAX UNDER
8 SUBCHAPTER XIX OF THE SOCIAL SECURITY ACT, THE SECRETARY OF
9 PUBLIC WELFARE SHALL NOTIFY THE SECRETARY OF REVENUE OF THAT
10 DETERMINATION. IF NOTIFICATION IS MADE UNDER THIS PARAGRAPH, THE
11 TAX UNDER THIS SUBSECTION SHALL CEASE TO BE IMPOSED AFTER THE
12 LAST DAY OF THE MONTH IN WHICH NOTIFICATION IS MADE.

13 (C) PAYMENT OF TAX; REPORTS.--THE SAID TAXES IMPOSED UNDER
14 SUBSECTIONS (A) [AND], (B) AND (B.1) SHALL BE PAID WITHIN THE
15 TIME PRESCRIBED BY LAW, AND FOR THE PURPOSE OF ASCERTAINING THE
16 AMOUNT OF THE SAME, IT SHALL BE THE DUTY OF THE TREASURER OR
17 OTHER PROPER OFFICER OF THE SAID COMPANY, COPARTNERSHIP, LIMITED
18 PARTNERSHIP, ASSOCIATION, JOINT-STOCK ASSOCIATION OR
19 CORPORATION, OR PERSON OR PERSONS, TO TRANSMIT TO THE DEPARTMENT
20 OF REVENUE ON OR BEFORE MARCH 15 OF EACH YEAR AN ANNUAL REPORT,
21 AND UNDER OATH OR AFFIRMATION, OF THE AMOUNT OF GROSS RECEIPTS
22 OF THE SAID COMPANIES, COPARTNERSHIPS, CORPORATIONS,
23 ASSOCIATIONS, JOINT-STOCK ASSOCIATIONS, LIMITED PARTNERSHIPS,
24 PERSON OR PERSONS, DERIVED FROM ALL SOURCES, AND OF GROSS
25 RECEIPTS FROM BUSINESS DONE WHOLLY WITHIN THIS STATE AND IN THE
26 CASE OF ELECTRIC ENERGY PRODUCERS THAT TRANSMIT ENERGY TO OTHER
27 STATES REFERRED TO IN CLAUSE (2) OF SUBSECTION (B), A
28 COMPILATION OF THE RELEVANT INFORMATION REGARDING OPERATING AND
29 MAINTENANCE EXPENSES AND DEPRECIATION, DURING THE PERIOD OF
30 TWELVE MONTHS IMMEDIATELY PRECEDING JANUARY 1 OF EACH YEAR. [IT

1 SHALL BE THE FURTHER DUTY OF THE TREASURER OR OTHER PROPER
2 OFFICER OF EVERY SUCH CORPORATION OR ASSOCIATION AND EVERY
3 INDIVIDUAL LIABLE BY LAW TO REPORT OR PAY SAID TAXES IMPOSED
4 UNDER SUBSECTIONS (A) AND (B) EXCEPT MUNICIPALITIES TO TRANSMIT
5 TO THE DEPARTMENT OF REVENUE ON OR BEFORE APRIL 30 OF EACH YEAR,
6 A TENTATIVE REPORT IN LIKE FORM AND MANNER FOR EACH TWELVE-MONTH
7 PERIOD BEGINNING JANUARY 1, OF EACH YEAR. THE TENTATIVE REPORT
8 SHALL SET FORTH (I) THE AMOUNT OF GROSS RECEIPTS RECEIVED IN THE
9 PERIOD OF TWELVE MONTHS NEXT PRECEDING AND REPORTED IN THE
10 ANNUAL REPORT; OR (II) THE GROSS RECEIPTS RECEIVED IN THE FIRST
11 THREE MONTHS OF THE CURRENT PERIOD OF TWELVE MONTHS; AND (III)
12 SUCH OTHER INFORMATION AS THE DEPARTMENT OF REVENUE MAY
13 REQUIRE.]

14 (C.1) SAFE HARBOR BASE YEAR.--FOR PURPOSES OF THE ESTIMATED
15 TAX REQUIREMENTS UNDER SECTIONS 3003.2 AND 3003.3, THE "SAFE
16 HARBOR BASE YEAR" TAX AMOUNT FOR PROVIDERS OF MOBILE
17 TELECOMMUNICATIONS SERVICES AND FOR A MANAGED CARE ORGANIZATION
18 SUBJECT TO THE PROVISIONS OF SUBSECTION (B.1) SHALL BE THE
19 AMOUNT THAT WOULD HAVE BEEN REQUIRED TO BE PAID BY THE TAXPAYER
20 IF THE TAXPAYER HAD BEEN SUBJECT TO THIS ARTICLE.

21 * * *

22 (E) TIME TO FILE REPORTS.--THE TIME FOR FILING ANNUAL
23 REPORTS MAY BE EXTENDED, ESTIMATED ASSESSMENTS MAY BE MADE BY
24 THE DEPARTMENT OF REVENUE IF REPORTS ARE NOT FILED, AND THE
25 PENALTIES FOR FAILING TO FILE REPORTS AND PAY THE TAXES IMPOSED
26 UNDER SUBSECTIONS (A) [AND], (B) AND (B.1) SHALL BE AS
27 PRESCRIBED BY THE LAWS DEFINING THE POWERS AND DUTIES OF THE
28 DEPARTMENT OF REVENUE. IN ANY CASE WHERE THE WORKS OF ANY
29 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
30 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS ARE OPERATED

1 BY ANOTHER CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION,
2 JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS,
3 THE TAXES IMPOSED UNDER SUBSECTIONS (A) [AND], (B) AND (B.1)
4 SHALL BE APPORTIONED BETWEEN THE CORPORATIONS, COMPANIES,
5 COPARTNERSHIPS, ASSOCIATIONS, JOINT-STOCK ASSOCIATIONS, LIMITED
6 PARTNERSHIPS, PERSON OR PERSONS IN ACCORDANCE WITH THE TERMS OF
7 THEIR RESPECTIVE LEASES OR AGREEMENTS, BUT FOR THE PAYMENT OF
8 THE SAID TAXES THE COMMONWEALTH SHALL FIRST LOOK TO THE
9 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
10 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS OPERATING
11 THE WORKS, AND UPON PAYMENT BY THE SAID COMPANY, CORPORATION,
12 COPARTNERSHIP, ASSOCIATION, JOINT-STOCK ASSOCIATION, LIMITED
13 PARTNERSHIP, PERSON OR PERSONS OF A TAX UPON THE RECEIPTS, AS
14 HEREIN PROVIDED, DERIVED FROM THE OPERATION THEREOF, NO OTHER
15 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
16 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS SHALL BE
17 HELD LIABLE FOR ANY TAX IMPOSED UNDER SUBSECTIONS (A) [AND], (B)
18 AND (B.1) UPON THE PROPORTION OF SAID RECEIPTS RECEIVED BY SAID
19 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
20 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS FOR THE USE
21 OF SAID WORKS.

22 * * *

23 (J) SCHEDULE FOR ESTIMATED PAYMENTS.--

24 (1) FOR CALENDAR YEAR 2004, THE FOLLOWING SCHEDULE APPLIES
25 TO THE PAYMENT OF THE TAX UNDER SUBSECTION(A) (3) :

26 (I) FORTY PER CENT OF THE ESTIMATED TAX SHALL BE DUE ON
27 MARCH 15, 2004.

28 (II) FORTY PER CENT OF THE ESTIMATED TAX SHALL BE DUE ON
29 JUNE 15, 2004.

30 (III) TWENTY PER CENT OF THE ESTIMATED TAX SHALL BE DUE ON

1 SEPTEMBER 15, 2004.

2 (2) FOR CALENDAR YEARS AFTER 2004, THE PAYMENT OF THE
3 ESTIMATED TAX UNDER SUBSECTION (A) (3) SHALL BE DUE IN ACCORDANCE
4 WITH SECTION 3003.2.

5 (3) FOR CALENDAR YEAR 2009, THE TAX APPLICABLE TO THE
6 PAYMENT OF THE TAX UNDER SUBSECTION (B.1) SHALL BE DUE ON MARCH
7 15, 2010.

8 (4) FOR CALENDAR YEAR 2010, PAYMENTS OF THE ESTIMATED TAX
9 UNDER SUBSECTION (B.1) SHALL BE DUE ON MAY 15, 2010. FOR
10 CALENDAR YEAR 2011 AND EACH CALENDAR YEAR THEREAFTER, THE
11 PAYMENT OF THE ESTIMATED TAX UNDER SUBSECTION (B.1) SHALL BE DUE
12 IN ACCORDANCE WITH SECTION 3003.2.

13 * * *

14 SECTION 9.2. THE DEFINITIONS OF "CIGARETTE" AND "UNSTAMPED
15 CIGARETTES" IN SECTION 1201 OF THE ACT, ADDED DECEMBER 21, 1981
16 (P.L.482, NO.141), ARE AMENDED AND THE SECTION IS AMENDED BY
17 ADDING DEFINITIONS TO READ:

18 SECTION 1201. DEFINITIONS.--AS USED IN THIS ARTICLE:

19 * * *

20 "CIGARETTE." ANY ROLL FOR SMOKING MADE WHOLLY OR IN PART OF
21 TOBACCO, THE WRAPPER OR COVER OF WHICH IS MADE OF ANY SUBSTANCE
22 OR MATERIAL OTHER THAN TOBACCO REGARDLESS OF THE SIZE OR SHAPE
23 OF THE ROLL AND REGARDLESS OF WHETHER OR NOT THE TOBACCO IS
24 FLAVORED, ADULTERATED OR MIXED WITH ANY OTHER INGREDIENT; OR A
25 LITTLE CIGAR.

26 * * *

27 "LITTLE CIGAR." ANY ROLL FOR SMOKING THAT WEIGHS NOT MORE
28 THAN FOUR POUNDS PER THOUSAND, WHERE THE WRAPPER OR COVER IS
29 MADE OF NATURAL LEAF TOBACCO OR OF ANY SUBSTANCE CONTAINING
30 TOBACCO.

1 * * *

2 "RETAILER." ANY OF THE FOLLOWING:

3 (1) ANY PERSON WHO, IN THE USUAL COURSE OF BUSINESS,
4 PURCHASES OR RECEIVES CIGARETTES FROM ANY SOURCE WHATSOEVER FOR
5 THE PURPOSE OF SALE TO THE ULTIMATE CONSUMER.

6 (2) ANY PERSON WHO, IN THE USUAL COURSE OF BUSINESS, OWNS,
7 LEASES OR OTHERWISE OPERATES ONE OR MORE VENDING MACHINES FOR
8 THE PURPOSE OF SALE OF CIGARETTES TO THE ULTIMATE CONSUMER.

9 (3) ANY PERSON WHO BUYS, SELLS, TRANSFERS OR DEALS IN
10 CIGARETTES FOR PROFIT AND IS NOT LICENSED AS A CIGARETTE
11 STAMPING AGENCY OR WHOLESALER UNDER ARTICLE II-A OF THE ACT OF
12 APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE."

13 "UNSTAMPED CIGARETTES." ANY PACK OF CIGARETTES TO WHICH THE
14 PROPER AMOUNT OF GENUINE PENNSYLVANIA CIGARETTE TAX STAMPS HAVE
15 NOT BEEN AFFIXED OR ANY CIGARETTE FOR WHICH THE PROPER AMOUNT OF
16 CIGARETTE TAX IMPOSED UNDER THIS ARTICLE HAS NOT BEEN PAID. ANY
17 PACK OF CIGARETTES CONTAINING A FORGED, BOGUS OR COUNTERFEIT
18 PENNSYLVANIA CIGARETTE TAX STAMP OR ANY PACK OF CIGARETTES
19 BEARING STOLEN, LOST OR MISPLACED GENUINE PENNSYLVANIA CIGARETTE
20 TAX STAMPS WHICH HAVE NOT BEEN AFFIXED TO SAID PACK OF
21 CIGARETTES BY A PROPER CIGARETTE STAMPING AGENCY AS PROVIDED FOR
22 IN THIS ARTICLE, OR ANY PACK OF CIGARETTES BEARING GENUINE
23 PENNSYLVANIA CIGARETTE TAX STAMPS FOR WHICH THE TAX HAS NOT BEEN
24 PAID AS A RESULT OF ANY WILFUL OR INTENTIONAL ACT FOR THE
25 PURPOSE OF EVADING THE PAYMENT OF THE PENNSYLVANIA CIGARETTE TAX
26 SHALL BE CONSIDERED, UNDER THE PROVISIONS OF THIS ARTICLE, TO BE
27 A PACKAGE OF "UNSTAMPED CIGARETTES."

28 * * *

29 "WHOLESALER." ANY OF THE FOLLOWING:

30 (1) ANY PERSON THAT MEETS ALL OF THE FOLLOWING:

1 (I) IN THE USUAL COURSE OF BUSINESS, PURCHASES CIGARETTES
2 FROM A CIGARETTE STAMPING AGENT OR OTHER WHOLESALER AND
3 RECEIVES, STORES, SELLS AND DISTRIBUTES WITHIN THIS COMMONWEALTH
4 AT LEAST SEVENTY-FIVE PER CENT OF THE CIGARETTES PURCHASED BY
5 HIM OR HER TO RETAIL DEALERS OR WHOLESALE DEALERS OR ANY
6 COMBINATION WHO BUYS THE CIGARETTES FROM HIM OR HER FOR THE
7 PURPOSE OF RESALE TO THE ULTIMATE CONSUMER.

8 (II) MAINTAINS AN ESTABLISHED PLACE OF BUSINESS FOR THE
9 RECEIVING, STORAGE AND DISTRIBUTION OF CIGARETTES.

10 (2) ANY PERSON THAT MEETS ALL OF THE FOLLOWING:

11 (I) IS ENGAGED IN THE BUSINESS OF DISTRIBUTING CIGARETTES
12 THROUGH VENDING MACHINES TO THE ULTIMATE CONSUMER BY MEANS OF
13 PLACING THE CIGARETTE VENDING MACHINES, OWNED OR LEASED BY HIM,
14 IN VARIOUS OUTLETS WITHIN THIS COMMONWEALTH.

15 (II) PAYS TO THE OWNER OR LESSEE OF THE PREMISES A
16 COMMISSION OR RENTAL FOR THE USE OF THE PREMISES.

17 (III) OPERATES AT LEAST TEN VENDING MACHINES.

18 (IV) MEETS ALL THE OTHER REQUIREMENTS FOR LICENSING OF
19 WHOLESALERS UNDER ARTICLE II-A OF THE ACT OF APRIL 9, 1929
20 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE," INCLUDING
21 MAINTAINING AN ESTABLISHED PLACE OF BUSINESS FOR THE RECEIVING,
22 STORAGE AND DISTRIBUTION OF CIGARETTES.

23 (3) ANY PERSON, INCLUDING A FRANCHISEE, THAT MEETS ALL OF
24 THE FOLLOWING:

25 (I) OWNS AND OPERATES NO FEWER THAN FIVE RETAIL OUTLETS IN
26 THIS COMMONWEALTH, HAVING ONE HUNDRED PER CENT COMMON OWNERSHIP.

27 (II) PURCHASES CIGARETTES FROM A CIGARETTE STAMPING AGENCY
28 OR ANOTHER WHOLESALER FOR RESALE TO THE ULTIMATE CONSUMER.

29 (III) MAINTAINS COMPLETE AND ACCURATE RECORDS OF ALL
30 PURCHASES AND SALES IN HIS OR HER MAIN OFFICE AND ALSO IN THE

1 RETAIL OUTLET.

2 SECTION 9.3. SECTIONS 1206 AND 1206.1 OF THE ACT, AMENDED
3 DECEMBER 23, 2003 (P.L.250, NO.46), ARE AMENDED TO READ:

4 SECTION 1206. INCIDENCE AND RATE OF TAX.--AN EXCISE TAX IS
5 HEREBY IMPOSED AND ASSESSED UPON THE SALE OR POSSESSION OF
6 CIGARETTES WITHIN THIS COMMONWEALTH AT THE RATE OF [SIX AND
7 SEVENTY-FIVE HUNDREDTHS] EIGHT CENTS PER CIGARETTE.

8 SECTION 1206.1. FLOOR TAX.--(A) THE FOLLOWING APPLY:

9 (1) A PERSON WHO POSSESSES CIGARETTES ON WHICH THE TAX
10 IMPOSED BY SECTION 1206 HAS BEEN PAID AS OF THE EFFECTIVE DATE
11 OF THIS SECTION SHALL PAY AN ADDITIONAL TAX AT A RATE OF [ONE
12 AND SEVENTY-FIVE] ONE AND TWENTY-FIVE HUNDREDTHS CENTS PER
13 CIGARETTE. THE TAX SHALL BE PAID AND REPORTED ON A FORM
14 PRESCRIBED BY THE DEPARTMENT WITHIN NINETY DAYS OF THE EFFECTIVE
15 DATE OF THIS SECTION.

16 (2) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH, A
17 PERSON THAT POSSESSES LITTLE CIGARS IN A PACKAGE WHICH IS
18 SIMILAR TO A PACKAGE OF CIGARETTES OTHER THAN LITTLE CIGARS AND
19 WHICH CONTAINS TWENTY TO TWENTY-FIVE LITTLE CIGARS SHALL PAY A
20 TAX AT THE RATE OF EIGHT CENTS PER LITTLE CIGAR. THE TAX SHALL
21 BE PAID AND REPORTED ON A FORM PRESCRIBED BY THE DEPARTMENT
22 WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH.

23 (3) AFTER JANUARY 3, 2010, A RETAILER THAT POSSESSES LITTLE
24 CIGARS ON WHICH THE TAX IMPOSED BY THIS ARTICLE HAS NOT BEEN
25 PAID SHALL PAY A TAX AT THE RATE OF EIGHT CENTS PER LITTLE
26 CIGAR. THE TAX SHALL BE PAID AND REPORTED ON A FORM PRESCRIBED
27 BY THE DEPARTMENT WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF
28 THIS PARAGRAPH.

29 (B) IF A CIGARETTE DEALER FAILS TO FILE THE REPORT REQUIRED
30 BY SUBSECTION (A) OR FAILS TO PAY THE TAX IMPOSED BY SUBSECTION

1 (A), THE DEPARTMENT MAY, IN ADDITION TO THE INTEREST AND
2 PENALTIES PROVIDED IN SECTION 1278, DO ANY OF THE FOLLOWING:

3 (1) IMPOSE AN ADMINISTRATIVE PENALTY EQUAL TO THE AMOUNT OF
4 TAX EVADED OR NOT PAID. THE PENALTY SHALL BE ADDED TO THE TAX
5 EVADED OR NOT PAID AND ASSESSED AND COLLECTED AT THE SAME TIME
6 AND IN THE SAME MANNER AS THE TAX.

7 (2) SUSPEND OR REVOKE A CIGARETTE DEALER'S LICENSE.

8 (C) IN ADDITION TO ANY PENALTY IMPOSED UNDER SUBSECTION (B),
9 A PERSON WHO WILFULLY OMITTS, NEGLECTS OR REFUSES TO COMPLY WITH
10 A DUTY IMPOSED UNDER SUBSECTION (A) COMMITS A MISDEMEANOR AND
11 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS
12 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) NOR MORE THAN
13 FIVE THOUSAND DOLLARS (\$5,000), TO SERVE A TERM OF IMPRISONMENT
14 NOT TO EXCEED THIRTY DAYS OR BOTH.

15 SECTION 9.4. SECTION 1210 OF THE ACT, ADDED DECEMBER 21,
16 1981 (P.L.482, NO.141), IS AMENDED TO READ:

17 SECTION 1210. LIABILITY FOR COLLECTION OF TAX.--(A) EVERY
18 PERSON SHALL BE LIABLE TO PAY INTO THE STATE TREASURY, THROUGH
19 THE DEPARTMENT, THE TAX IMPOSED BY THIS ARTICLE ON ALL
20 CIGARETTES RECEIVED BY HIM TO WHICH PENNSYLVANIA CIGARETTE TAX
21 STAMPS HAVE NOT BEEN PREVIOUSLY AFFIXED, THE TAX PAID, OR
22 EXEMPTED BY THE PROVISIONS OF THIS ARTICLE. NOTHING IN THIS
23 SECTION SHALL RELIEVE A CIGARETTE STAMPING AGENCY FROM ITS
24 LIABILITY TO PAY THE TAX IMPOSED BY THIS ARTICLE ON ALL
25 CIGARETTES RECEIVED BY IT TO WHICH PENNSYLVANIA CIGARETTE TAX
26 STAMPS HAVE NOT BEEN PREVIOUSLY AFFIXED, THE TAX PAID, OR
27 EXEMPTED BY THE PROVISIONS OF THIS ARTICLE.

28 (B) FOR SALES TO A RETAILER OF CIGARETTES NOT REQUIRED TO BE
29 STAMPED UNDER SECTION 1215, THE RETAILER SHALL BE REQUIRED TO
30 PAY THE TAX IMPOSED BY THIS ARTICLE TO THE WHOLESALER OR OTHER

1 SELLER OF THE CIGARETTES. THE WHOLESALER OR OTHER SELLER SHALL
2 BE LIABLE TO COLLECT AND REMIT THE TAX TO THE DEPARTMENT.
3 FAILURE OF THE SELLER OR RETAILER TO OBTAIN THE APPLICABLE
4 LICENSE SHALL NOT RELIEVE THE SELLER OR RETAILER OF THE
5 LIABILITY TO PAY THE TAX IMPOSED UNDER THIS ARTICLE.

6 SECTION 9.5. SECTIONS 1211, 1215 AND 1216 OF THE ACT,
7 AMENDED OR ADDED DECEMBER 23, 2003 (P.L.250, NO.46), ARE AMENDED
8 TO READ:

9 [SECTION 1211. HEALTH CARE PROVIDER RETENTION ACCOUNT.--
10 THERE IS ESTABLISHED IN THE GENERAL FUND A SPECIAL ACCOUNT TO BE
11 KNOWN AS THE HEALTH CARE PROVIDER RETENTION ACCOUNT. EIGHTEEN
12 AND FIFTY-TWO HUNDREDTHS PER CENT OF THE PROCEEDS OF THE TAX
13 IMPOSED BY SECTION 1206 SHALL BE DEPOSITED IN THE ACCOUNT. FUNDS
14 IN THE ACCOUNT SHALL BE SUBJECT TO AN ANNUAL APPROPRIATION AND
15 SHALL BE ADMINISTERED AS PROVIDED BY LAW.]

16 SECTION 1215. STAMP TO EVIDENCE THE TAX.--(A) THE
17 DEPARTMENT SHALL BY REGULATION REQUIRE EVERY CIGARETTE STAMPING
18 AGENCY OR ULTIMATE CONSUMER, TO USE CIGARETTE TAX STAMPS TO
19 EVIDENCE THE PAYMENT OF THE TAX IMPOSED BY THIS ARTICLE UNLESS
20 SUCH STAMPS HAVE BEEN AFFIXED TO THE PACKS OF UNSTAMPED
21 CIGARETTES AND PROPERLY CANCELLED BEFORE SUCH CIGARETTE STAMPING
22 AGENCY OR ULTIMATE CONSUMER RECEIVED THEM OR UNLESS OTHERWISE
23 PROVIDED IN SUBSECTION (G).

24 (B) THE DEPARTMENT SHALL BY REGULATION AUTHORIZE THE SALE OF
25 CIGARETTE TAX STAMPS AT SUCH PLACES AND AT SUCH TIMES AS IT
26 DEEMS NECESSARY AND THE DEPARTMENT SHALL PRESCRIBE THE MANNER,
27 TIME AND CONDITIONS UNDER WHICH THE PAYMENT OF TAX SHALL BE
28 MADE.

29 (C) THE DEPARTMENT SHALL ALSO PRESCRIBE THE TYPE OF
30 CIGARETTE TAX STAMPS WHICH SHALL BE USED, TO EVIDENCE PAYMENT OF

1 THE TAX. NOTHING IN THIS PROVISION SHALL BE CONSTRUED AS A
2 LIMITATION UPON THE DEPARTMENT TO PRESCRIBE VARIOUS METHODS OF
3 AFFIXING CIGARETTE TAX STAMPS AND SAID DEPARTMENT SHALL HAVE THE
4 AUTHORITY TO PRESCRIBE ONE OR MORE OF SEVERAL TYPES OF TAX
5 STAMPS WHICH SHALL BE USED BY A PARTICULAR CIGARETTE STAMPING
6 AGENCY WHENEVER, IN THE REASONABLE EXERCISE OF ITS POWERS, IT
7 SHALL BE DEEMED NECESSARY FOR THE PROTECTION OF THE REVENUE.

8 (D) UNDER NO CIRCUMSTANCES SHALL ANY CIGARETTE STAMPING
9 AGENCY BE PERMITTED TO SELL, TRANSFER OR DELIVER TO ANY PERSON
10 ANY [PACKAGES OF] UNSTAMPED CIGARETTES, OR ANY UNUSED CIGARETTE
11 TAX STAMPS UNLESS SPECIFICALLY PERMITTED BY THE PROVISIONS OF
12 THIS ARTICLE.

13 (E) THE DEPARTMENT SHALL BY REGULATION PERMIT A CIGARETTE
14 STAMPING AGENCY TO PAY FOR PURCHASES ON A DEFERRED BASIS, UPON
15 THE FILING OF A SURETY BOND, OF THE TYPE APPROVED BY THE
16 DEPARTMENT, WITH THE DEPARTMENT, IN AN AMOUNT DEEMED SUFFICIENT
17 BY THE DEPARTMENT TO PROTECT THE REVENUE, SAID BOND TO BE
18 EXECUTED BY THE CIGARETTE STAMPING AGENCY AS PRINCIPAL AND BY A
19 CORPORATE SURETY COMPANY, DULY AUTHORIZED TO ENGAGE IN SUCH
20 BUSINESS IN THE COMMONWEALTH OF PENNSYLVANIA, AS SURETY. IN LIEU
21 OF THE BOND REQUIRED BY THIS SUBSECTION, THE DEPARTMENT SHALL
22 ACCEPT OTHER FORMS OF SECURITY, SUCH AS A LINE OF CREDIT, IF THE
23 DEPARTMENT DEEMS THE SECURITY SUFFICIENT TO PROTECT THE REVENUE.
24 THE DEPARTMENT SHALL DENY DEFERRED PURCHASE PLANS TO ANY
25 STAMPING AGENCY IN ANY STATE WHERE SUCH STATE DENIES STAMPING
26 AGENCIES IN PENNSYLVANIA THE RIGHT TO USE DEFERRED PURCHASE
27 PLANS. THE DEPARTMENT MAY DENY ANY CIGARETTE STAMPING AGENT THE
28 RIGHT TO PURCHASE CIGARETTE TAX STAMPS IF THE CIGARETTE STAMPING
29 AGENT IS DELINQUENT IN REMITTING CIGARETTE TAXES OR FINES OWED
30 THE COMMONWEALTH.

1 (F) THE DEPARTMENT SHALL, UPON APPLICATION, PERMIT A
2 CIGARETTE STAMPING AGENCY TO POST A SURETY BOND WITH THE
3 DEPARTMENT FOR FIFTY PER CENT OF THE AMOUNT OF THE TAX STAMP
4 PURCHASE, PROVIDED THAT THE AGENCY HAS A RECORD OF TIMELY
5 PAYMENTS OF THE TAX FOR A THREE-YEAR PERIOD PRIOR TO APPLICATION
6 AND FURTHER PROVIDED THAT THE AGENCY FILES WITH THE DEPARTMENT A
7 FINANCIAL STATEMENT THAT DEMONSTRATES ASSETS SUFFICIENT TO
8 PROTECT THE REVENUES. TO PRESERVE THE DISCOUNTED BOND
9 ARRANGEMENT AN AGENCY MAY BE REQUIRED TO PROVIDE AN UPDATED
10 FINANCIAL STATEMENT AT THE REQUEST OF THE DEPARTMENT. IF THE
11 DEPARTMENT DETERMINES THE CIGARETTE STAMPING AGENCY'S FINANCIAL
12 CONDITION AND THE TYPE AND AMOUNT OF SECURITY POSTED BY THE
13 CIGARETTE STAMPING AGENCY IS INSUFFICIENT TO PROTECT THE
14 REVENUE, THE DEPARTMENT MAY REQUIRE ADDITIONAL SECURITY IN THE
15 TYPE AND AMOUNT NECESSARY TO PROTECT THE REVENUE. IF THE
16 CIGARETTE STAMPING AGENCY FAILS TO POST THE TYPE AND AMOUNT OF
17 SECURITY REQUESTED WITHIN TEN DAYS OF THE MAILING DATE OF THE
18 REQUEST, THE DEPARTMENT MAY REVOKE THE CIGARETTE STAMPING
19 AGENCY'S LICENSE.

20 (G) STAMPS SHALL BE AFFIXED TO ALL INDIVIDUAL PACKAGES
21 CONTAINING FROM TWENTY TO TWENTY-FIVE CIGARETTES. INDIVIDUAL
22 PACKAGES CONTAINING LESS THAN TWENTY OR MORE THAN TWENTY-FIVE
23 CIGARETTES SHALL HAVE STAMPS AFFIXED UNLESS THE DEPARTMENT
24 DETERMINES THE AFFIXING OF STAMPS IS PHYSICALLY IMPRACTICAL DUE
25 TO THE SIZE OR NATURE OF THE PACKAGE OR DETERMINES THAT THE COST
26 OF AFFIXING THE STAMPS IS UNREASONABLY DISPROPORTIONATE TO THE
27 TAX TO BE COLLECTED.

28 (H) WHERE THE DEPARTMENT HAS DETERMINED THAT A CIGARETTE
29 PACKAGE IS NOT REQUIRED TO BE STAMPED UNDER SUBSECTION (G), THE
30 TAX SHALL BE COLLECTED ON THE SALE OF THE CIGARETTE FROM THE

1 WHOLESALE TO THE RETAILER. TO VERIFY THE PAYMENT OF THIS TAX,
2 THE FOLLOWING SHALL BE REQUIRED:

3 (1) THE WHOLESALE MUST MAINTAIN DOCUMENTATION TO SHOW THE
4 MONTHLY TOTAL NUMBER OF UNSTAMPED CIGARETTE PACKAGES PURCHASED
5 AND SOLD LISTED BY BRAND NAME AND HOW MANY CIGARETTES WERE IN
6 EACH UNSTAMPED CIGARETTE PACKAGE.

7 (2) THE WHOLESALE MUST MAINTAIN A COPY OF A PAID
8 MANUFACTURER'S OR OTHER WHOLESALE'S DATED INVOICES TO
9 SUBSTANTIATE THE TOTAL NUMBER OF CIGARETTES PURCHASED BY THE
10 WHOLESALE. THE INVOICES MUST LIST THE TOTAL QUANTITIES OF EVERY
11 DIFFERENT BRAND NAME PURCHASED, THE TOTAL NUMBER OF EACH TYPE OF
12 PACKAGE OF EACH BRAND NAME, THE NUMBER OF CIGARETTES IN EACH
13 PACKAGE, THE PURCHASE PRICE AND ANY OTHER INFORMATION THE
14 DEPARTMENT MAY REQUIRE.

15 (3) EVERY INVOICE TO A RETAILER MUST LIST ALL THE
16 INFORMATION REQUIRED IN CLAUSE (2) ALONG WITH THE AMOUNT OF TAX
17 CHARGED ON EACH PACKAGE OF CIGARETTES SOLD TO THE RETAILER.

18 (I) FOR PURPOSES OF DETERMINING THE WEIGHT OF LITTLE CIGARS,
19 A PERSON SHIPPING LITTLE CIGARS WITHIN OR INTO THIS COMMONWEALTH
20 SHALL PROVIDE THE DEPARTMENT WITH THE WEIGHT PER THOUSAND
21 SHIPPED, SEGREGATED BY BRAND NAME, PACKAGE TYPE, NUMBER PER
22 PACKAGE AND ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.
23 THIS INFORMATION SHALL BE REPORTED ON A FORM PRESCRIBED BY THE
24 DEPARTMENT AND SHALL BE FILED WITH THE DEPARTMENT WITHIN
25 FOURTEEN DAYS OF SHIPMENT OR ON A SCHEDULE DETERMINED BY THE
26 DEPARTMENT BY REGULATION. IF THE PERSON SHIPPING THE LITTLE
27 CIGARS INTO THIS COMMONWEALTH IS NOT THE MANUFACTURER, THE
28 PERSON SHALL OBTAIN THE INFORMATION AS TO THE WEIGHT OF THE
29 LITTLE CIGARS FROM THE MANUFACTURER AND REPORT THE WEIGHT ON THE
30 FORM AND BY THE DATE REFERRED TO IN THIS SUBSECTION.

1 SECTION 1216. COMMISSIONS ON SALES.--A CIGARETTE STAMPING
2 AGENT SHALL BE ENTITLED TO A COMMISSION FOR THE AGENT'S SERVICES
3 AND EXPENSES IN AFFIXING CIGARETTE TAX STAMPS. THE COMMISSION
4 SHALL BE EQUAL TO [NINETY-EIGHT] EIGHTY-SEVEN HUNDREDTHS PER
5 CENT OF THE TOTAL VALUE OF PENNSYLVANIA CIGARETTE TAX STAMPS
6 PURCHASED BY THE AGENT FROM THE DEPARTMENT OR ITS AUTHORIZED
7 AGENTS TO BE USED IN THE STAMPING OF [PACKAGES OF] UNSTAMPED
8 CIGARETTES FOR SALE WITHIN THIS COMMONWEALTH. THE CIGARETTE
9 STAMPING AGENT MAY DEDUCT FROM THE MONEYS TO BE PAID TO THE
10 DEPARTMENT OR ITS AUTHORIZED AGENTS FOR THE STAMPS AN AMOUNT
11 EQUAL TO [NINETY-EIGHT] EIGHTY-SEVEN HUNDREDTHS PER CENT OF THE
12 VALUE OF THE STAMPS PURCHASED. THIS SECTION SHALL NOT APPLY TO
13 PURCHASES OF STAMPS BY A CIGARETTE STAMPING AGENT IN AN AMOUNT
14 LESS THAN ONE HUNDRED DOLLARS (\$100).

15 SECTION 9.6. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

16 SECTION 1216.1. RETURN AND PAYMENT OF TAX FOR UNSTAMPED
17 CIGARETTES.--(A) BY THE TWENTIETH DAY OF EACH MONTH, EVERY
18 PERSON SELLING UNSTAMPED CIGARETTES TO RETAILERS SHALL FILE A
19 RETURN WITH THE DEPARTMENT REPORTING THE TAX IMPOSED BY THIS
20 ARTICLE ON THE SALES OF UNSTAMPED CIGARETTES IN THE PRIOR
21 CALENDAR MONTH.

22 (B) BY THE TWENTIETH DAY OF EACH MONTH, EVERY PERSON
23 PURCHASING UNSTAMPED CIGARETTES ON WHICH THE TAX IMPOSED BY THIS
24 ARTICLE WAS NOT PAID TO THE SELLER OR WHOLESALER SHALL FILE A
25 RETURN WITH THE DEPARTMENT REPORTING THE AMOUNT OF TAX DUE ON
26 THE PURCHASE OF UNSTAMPED CIGARETTES IN THE PRIOR CALENDAR
27 MONTH.

28 (C) THE RETURN SHALL BE ON A FORM PRESCRIBED BY THE
29 DEPARTMENT AND MUST CONTAIN ANY INFORMATION REQUIRED BY THE
30 DEPARTMENT.

1 (D) WHEN A RETURN OF TAX IS REQUIRED UNDER THIS SECTION, THE
2 PERSON REQUIRED TO FILE THE RETURN SHALL PAY THE TAX TO THE
3 DEPARTMENT ON THE DATE THE RETURN IS DUE.

4 (E) UNLESS OTHERWISE SPECIFICALLY NOTED, THE PROVISIONS OF
5 ARTICLE II SHALL APPLY TO THE RETURNS, PAYMENT, PENALTIES,
6 ENFORCEMENT, COLLECTIONS AND APPEALS OF THE TAX IMPOSED ON
7 UNSTAMPED CIGARETTES.

8 SECTION 9.7. SECTIONS 1272 AND 1273 OF THE ACT, ADDED
9 DECEMBER 21, 1981 (P.L.482, NO.141), ARE AMENDED TO READ:

10 SECTION 1272. SALES OF UNSTAMPED CIGARETTES.--(A) ANY
11 PERSON WHO SHALL SELL ANY [PACK OF] UNSTAMPED CIGARETTES [WHICH
12 DOES NOT HAVE AFFIXED THERETO THE PROPER AMOUNT OF GENUINE
13 PENNSYLVANIA CIGARETTE TAX STAMPS] SHALL, UPON CONVICTION IN A
14 SUMMARY PROCEEDING BE SENTENCED TO PAY COSTS OF PROSECUTION AND
15 A FINE OF NOT LESS THAN ONE HUNDRED DOLLARS (\$100) NOR MORE THAN
16 ONE THOUSAND DOLLARS (\$1000) OR TO SUFFER IMPRISONMENT FOR A
17 TERM OF NOT MORE THAN SIXTY DAYS, OR BOTH, AT THE DISCRETION OF
18 THE COURT.

19 (B) ANY PERSON WHO SHALL FALSELY OR FRAUDULENTLY,
20 MALICIOUSLY, INTENTIONALLY OR WILFULLY WITH INTENT TO EVADE THE
21 PAYMENT OF THE PENNSYLVANIA CIGARETTE TAX, SELL ANY [PACK OF]
22 UNSTAMPED CIGARETTES [WHICH DO NOT HAVE AFFIXED THERETO THE
23 PROPER AMOUNT OF GENUINE PENNSYLVANIA CIGARETTE TAX STAMPS]
24 SHALL BE GUILTY OF A FELONY AND UPON CONVICTION THEREOF SHALL BE
25 SENTENCED TO PAY A FINE OF NOT MORE THAN FIFTEEN THOUSAND
26 DOLLARS (\$15,000), PLUS COSTS OF PROSECUTION OR TO SUFFER
27 IMPRISONMENT FOR A TERM OF NOT MORE THAN FIVE YEARS, OR BOTH, AT
28 THE DISCRETION OF THE COURT.

29 (C) FOR THE PURPOSES OF THIS SECTION, THE SALE OF UNSTAMPED
30 CIGARETTES [HAVING AFFIXED THERETO GENUINE PENNSYLVANIA

1 CIGARETTE TAX STAMPS] FOR WHICH THE TAX HAS NOT BEEN PAID AS A
2 RESULT OF ANY WILFUL OR INTENTIONAL ACT FOR THE PURPOSE OF
3 AVOIDING THE PAYMENT OF THE PENNSYLVANIA CIGARETTE TAX SHALL BE
4 CONSIDERED AN ILLEGAL SALE SUBJECTING THE SELLER TO THE
5 PENALTIES PROVIDED IN SUBSECTION (B).

6 SECTION 1273. POSSESSION OF UNSTAMPED CIGARETTES.--(A) ANY
7 PERSON OTHER THAN A DULY LICENSED STAMPING AGENCY OR OTHER
8 PERSON SPECIFICALLY EXEMPTED BY THE PROVISIONS OF THIS ARTICLE
9 WHO SHALL POSSESS MORE THAN TWO HUNDRED BUT LESS THAN ONE
10 THOUSAND UNSTAMPED CIGARETTES[, PACKAGES OF WHICH DO NOT HAVE
11 AFFIXED THERETO THE PROPER AMOUNT OF GENUINE CIGARETTE TAX
12 STAMPS] SHALL BE GUILTY OF A SUMMARY OFFENSE AND UPON CONVICTION
13 THEREOF SHALL PAY A FINE OF THREE HUNDRED DOLLARS (\$300), PLUS
14 COSTS OF PROSECUTION OR TO SUFFER IMPRISONMENT FOR NOT MORE THAN
15 NINETY DAYS, OR BOTH, AT THE DISCRETION OF THE COURT.

16 (B) ANY PERSON OTHER THAN A DULY LICENSED STAMPING AGENCY OR
17 OTHER PERSON SPECIFICALLY EXEMPTED BY THE PROVISIONS OF THIS
18 ARTICLE WHO SHALL POSSESS ONE THOUSAND OR MORE UNSTAMPED
19 CIGARETTES[, THE PACKAGES OF WHICH DO NOT HAVE AFFIXED THERETO
20 THE PROPER AMOUNT OF GENUINE PENNSYLVANIA CIGARETTE TAX STAMPS]
21 SHALL BE GUILTY OF A MISDEMEANOR AND UPON CONVICTION THEREOF
22 SHALL BE SENTENCED TO A FINE OF NOT LESS THAN ONE THOUSAND
23 DOLLARS (\$1000) NOR MORE THAN FIFTEEN THOUSAND DOLLARS (\$15,000)
24 AND COSTS OF PROSECUTION OR TO SUFFER IMPRISONMENT FOR NOT MORE
25 THAN THREE YEARS, OR BOTH, AT THE DISCRETION OF THE COURT.

26 (C) ANY PERSON WHO SHALL FALSELY OR FRAUDULENTLY,
27 MALICIOUSLY, INTENTIONALLY OR WILFULLY WITH INTENT TO EVADE THE
28 PAYMENT OF THE PENNSYLVANIA CIGARETTE TAX POSSESS ANY [PACK OF]
29 UNSTAMPED CIGARETTES [WHICH DOES NOT HAVE AFFIXED THERETO THE
30 PROPER AMOUNT OF GENUINE PENNSYLVANIA CIGARETTE TAX STAMPS]

1 SHALL BE GUILTY OF A FELONY AND UPON CONVICTION THEREOF SHALL BE
2 SENTENCED TO PAY A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS
3 (\$5000) AND COSTS OF PROSECUTION AND TO SUFFER IMPRISONMENT FOR
4 A TERM OF NOT MORE THAN FIVE YEARS.

5 (D) EVERY PERSON OTHER THAN A COMMON CARRIER ENGAGED IN
6 INTERSTATE COMMERCE WHO SHALL POSSESS OR TRANSPORT MORE THAN TWO
7 HUNDRED UNSTAMPED CIGARETTES UPON THE PUBLIC HIGHWAYS, ROADS OR
8 STREETS OF THIS COMMONWEALTH, SHALL BE REQUIRED TO HAVE IN HIS
9 POSSESSION INVOICES OR DELIVERY TICKETS FOR SUCH CIGARETTES. THE
10 INVOICES OR DELIVERY TICKETS SHALL SHOW THE CORRECT DATE OF
11 PURCHASE OR SHIPMENT, TRUE NAME AND COMPLETE AND EXACT ADDRESS
12 OF THE CONSIGNOR OR SELLER, THE TRUE NAME AND COMPLETE AND EXACT
13 ADDRESS OF THE CONSIGNEE OR PURCHASER, THE QUANTITY AND BRANDS
14 OF THE CIGARETTES SO TRANSPORTED AND THE TRUE NAME AND COMPLETE
15 AND EXACT ADDRESS OF THE PERSON WHO SHALL ASSUME THE PAYMENT OF
16 THE PENNSYLVANIA STATE TAX OR THE TAX, IF ANY, OF THE STATE OR
17 FOREIGN COUNTRY AT THE POINT OF ULTIMATE DESTINATION. IF THE
18 CIGARETTES ARE CONSIGNED TO OR PURCHASED BY ANY PERSON IN THE
19 COMMONWEALTH OF PENNSYLVANIA SUCH CONSIGNEE OR PURCHASER MUST BE
20 A LICENSED CIGARETTE STAMPING AGENCY OR OTHERWISE AUTHORIZED BY
21 THIS ARTICLE TO POSSESS UNSTAMPED CIGARETTES WITHIN THE
22 BOUNDARIES OF THIS COMMONWEALTH. THE ABSENCE OF SUCH INVOICES OR
23 DELIVERY TICKETS SHALL BE PRIMA FACIE EVIDENCE THAT THE
24 POSSESSION OF SUCH CIGARETTES IS CONTRARY TO THE PROVISIONS OF
25 THIS ARTICLE AND SHALL SUBJECT THE POSSESSOR TO THE PENALTIES
26 IMPOSED HEREIN.

27 (E) IN THE ABSENCE OF SUCH INVOICES OR DELIVERY TICKETS OR,
28 IF THE NAME OR ADDRESS OF THE PURCHASER OR CONSIGNOR IS
29 FALSIFIED, OR IF THE PURCHASER OR CONSIGNEE IN THIS COMMONWEALTH
30 IS NOT AUTHORIZED TO POSSESS UNSTAMPED CIGARETTES THEN AND IN

1 THAT EVENT THE CIGARETTES SO TRANSPORTED SHALL BE SUBJECT TO
2 CONFISCATION AT THE DISCRETION OF THE SECRETARY OF REVENUE AS IS
3 MORE FULLY DESCRIBED IN SECTION 1285.

4 (F) FOR THE PURPOSE OF THIS SECTION THE POSSESSION OF
5 GENUINE PENNSYLVANIA CIGARETTE TAX STAMPS FOR WHICH THE TAX HAS
6 NOT BEEN PAID AS A RESULT OF ANY WILFUL OR INTENTIONAL ACT FOR
7 THE PURPOSE OF AVOIDING THE PAYMENT OF THE PENNSYLVANIA
8 CIGARETTE TAX SHALL BE CONSIDERED A VIOLATION OF THIS ARTICLE
9 SUBJECTING THE POSSESSOR THEREOF TO THE PENALTIES PROVIDED IN
10 SUBSECTION (C).

11 (G) TRANSPORTATION OF CIGARETTES FROM A POINT OUTSIDE OF
12 THIS COMMONWEALTH TO A FINAL DESTINATION OUTSIDE OF THIS
13 COMMONWEALTH SHALL NOT BE CONSIDERED A VIOLATION OF THIS SECTION
14 PROVIDED THAT THE PERSON SO TRANSPORTING SUCH CIGARETTES HAS IN
15 HIS POSSESSION INVOICES, BILLS OF LADING OR DELIVERY TICKETS
16 WHICH GIVE THE TRUE NAME AND TRUE ADDRESS OF SUCH OUT-OF-STATE
17 CONSIGNOR OR SELLER AND SUCH OUT-OF-STATE CONSIGNEE OR
18 PURCHASER: PROVIDED, HOWEVER, THAT SUCH CONSIGNOR OR CONSIGNEE
19 SHALL BE AUTHORIZED BY THE LAWS OF SUCH STATES TO RECEIVE OR
20 POSSESS CIGARETTES ON WHICH THE TAXES IMPOSED BY SUCH OTHER
21 STATES HAVE NOT BEEN PAID.

22 (H) IN ANY CASE, WHERE AGENTS OF THE DEPARTMENT HAVE REASON
23 TO BELIEVE THAT ANY VEHICLE IS CARRYING OR TRANSPORTING
24 CIGARETTES IN VIOLATION OF THIS ARTICLE, THEN AND IN THAT EVENT,
25 THE AGENTS OF THE DEPARTMENT SHALL BE AND ARE HEREBY AUTHORIZED
26 TO STOP SUCH VEHICLE, MAKE AN INSPECTION AND CONFISCATE ALL SUCH
27 UNSTAMPED OR IMPROPERLY STAMPED CIGARETTES FOUND THEREIN AND
28 CONFISCATE THE VEHICLE USED TO TRANSPORT SUCH UNSTAMPED OR
29 IMPROPERLY STAMPED CIGARETTES.

30 SECTION 9.8. SECTION 1278 OF THE ACT, AMENDED OR ADDED

1 DECEMBER 21, 1981 (P.L.482, NO.141) AND JUNE 22, 2001 (P.L.353,
2 NO.23), IS AMENDED TO READ:

3 SECTION 1278. OTHER VIOLATIONS.--(A) ANY PERSON WHO
4 WILFULLY OMITTS, NEGLECTS, OR REFUSES TO COMPLY WITH ANY DUTY
5 IMPOSED UPON HIM BY THIS ARTICLE OR DOES ANYTHING PROHIBITED BY
6 THIS ARTICLE FOR WHICH NO SPECIFIC PENALTY IS OTHERWISE
7 PROVIDED, SHALL UPON CONVICTION IN A SUMMARY PROCEEDING BE
8 SENTENCED TO PAY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS
9 (\$500) AND COSTS OF PROSECUTION, AND, IN DEFAULT OF PAYMENT
10 THEREOF, TO UNDERGO IMPRISONMENT FOR NOT MORE THAN THIRTY DAYS.

11 (B) ANY PERSON WHO WILFULLY OMITTS OR NEGLECTS TO FILE ANY
12 RETURN REQUIRED OR PAY ANY TAX IMPOSED BY THIS ARTICLE, OR
13 ATTEMPTS IN ANY MANNER TO EVADE OR DEFEAT THE TAX OR PAYMENT
14 THEREOF, SHALL, IN ADDITION TO ANY OTHER PENALTY PROVIDED IN
15 THIS ARTICLE, BE LIABLE TO A PENALTY EQUAL TO THE AMOUNT OF TAX
16 EVADED OR NOT PAID, WHICH PENALTY SHALL BE ADDED TO THE TAX AND
17 ASSESSED AND COLLECTED AT THE SAME TIME IN THE SAME MANNER AS A
18 PART OF THE TAX.

19 (C) ANY PERSON WHO FAILS TO FILE ANY REQUIRED RETURN OR PAY
20 TAX AT THE TIME PRESCRIBED SHALL, IN ADDITION TO ANY OTHER
21 PENALTY PROVIDED IN THIS ARTICLE, BE LIABLE TO A PENALTY OF FIVE
22 PER CENT OF THE TAX DUE BUT UNPAID FOR EACH MONTH OR FRACTION
23 THEREOF THE TAX REMAINS UNPAID TOGETHER WITH THE INTEREST AT THE
24 RATE ESTABLISHED PURSUANT TO SECTION 806 OF THE ACT OF APRIL 9,
25 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE," ON SUCH TAX
26 FROM THE TIME THE TAX BECAME DUE. THE PENALTIES PROVIDED IN THIS
27 SUBSECTION SHALL BE ADDED TO THE TAX AND ASSESSED AND COLLECTED
28 AT THE SAME TIME IN THE SAME MANNER AND AS A PART OF THE TAX.

29 SECTION 9.9. SECTION 1704-B OF THE ACT, AMENDED DECEMBER 23,
30 2003 (P.L.250, NO.46), IS AMENDED TO READ:

1 SECTION 1704-B. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT
2 OF CREDIT.-- (A) IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF
3 THE RESEARCH AND DEVELOPMENT TAX CREDIT FOR THE TAXABLE YEAR IN
4 WHICH THE RESEARCH AND DEVELOPMENT TAX CREDIT IS FIRST APPROVED,
5 THEN THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS
6 AND USED AS A CREDIT AGAINST THE QUALIFIED TAX LIABILITY OF THE
7 TAXPAYER FOR THOSE TAXABLE YEARS. EACH TIME THAT THE RESEARCH
8 AND DEVELOPMENT TAX CREDIT IS CARRIED OVER TO A SUCCEEDING
9 TAXABLE YEAR, IT IS TO BE REDUCED BY THE AMOUNT THAT WAS USED AS
10 A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE
11 RESEARCH AND DEVELOPMENT TAX CREDIT PROVIDED BY THIS ARTICLE MAY
12 BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE YEARS FOR NO
13 MORE THAN FIFTEEN TAXABLE YEARS FOLLOWING THE FIRST TAXABLE YEAR
14 FOR WHICH THE TAXPAYER WAS ENTITLED TO CLAIM THE CREDIT.

15 (B) A RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED BY THE
16 DEPARTMENT FOR PENNSYLVANIA QUALIFIED RESEARCH AND DEVELOPMENT
17 EXPENSE IN A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE
18 TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR
19 AS OF THE DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE
20 RESEARCH AND DEVELOPMENT TAX CREDIT IS APPLIED AGAINST ANY TAX
21 LIABILITY UNDER SUBSECTION (A).

22 (C) A TAXPAYER IS NOT ENTITLED TO CARRY BACK OR OBTAIN A
23 REFUND OF AN UNUSED RESEARCH AND DEVELOPMENT TAX CREDIT.

24 (D) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
25 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, MAY SELL OR
26 ASSIGN, IN WHOLE OR IN PART, A RESEARCH AND DEVELOPMENT TAX
27 CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE [IF NO CLAIM
28 FOR ALLOWANCE OF THE CREDIT IS FILED WITHIN ONE YEAR FROM THE
29 DATE THE CREDIT IS APPROVED BY THE DEPARTMENT UNDER SECTION
30 1703-B]. THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

1 SHALL ESTABLISH GUIDELINES FOR THE APPROVAL OF APPLICATIONS
2 UNDER THIS SUBSECTION.

3 (E) THE PURCHASER OR ASSIGNEE OF A PORTION OF A RESEARCH AND
4 DEVELOPMENT TAX CREDIT UNDER SUBSECTION (D) SHALL IMMEDIATELY
5 CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
6 ASSIGNMENT IS MADE. THE AMOUNT OF THE RESEARCH AND DEVELOPMENT
7 CREDIT THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE
8 QUALIFIED TAX LIABILITY MAY NOT EXCEED SEVENTY-FIVE PER CENT OF
9 SUCH QUALIFIED TAX LIABILITY FOR THE TAXABLE YEAR. THE PURCHASER
10 OR ASSIGNEE MAY NOT CARRY OVER, CARRY BACK, OBTAIN A REFUND OF
11 OR ASSIGN THE RESEARCH AND DEVELOPMENT TAX CREDIT. THE PURCHASER
12 OR ASSIGNEE SHALL NOTIFY THE DEPARTMENT OF THE SELLER OR
13 ASSIGNOR OF THE RESEARCH AND DEVELOPMENT TAX CREDIT IN
14 COMPLIANCE WITH PROCEDURES SPECIFIED BY THE DEPARTMENT.

15 SECTION 9.10. THE ACT IS AMENDED BY ADDING AN ARTICLE TO
16 READ:

17 ARTICLE XVII-F

18 EDUCATIONAL IMPROVEMENT TAX CREDIT

19 SECTION 1701-F. SCOPE.

20 THIS ARTICLE ESTABLISHES THE EDUCATIONAL IMPROVEMENT TAX
21 CREDIT.

22 SECTION 1702-F. DEFINITIONS.

23 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
24 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
25 CONTEXT CLEARLY INDICATES OTHERWISE:

26 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
27 COMMONWEALTH AND SUBJECT TO TAXES IMPOSED UNDER ARTICLE III, IV,
28 VI, VII, VIII, IX OR XV. THE TERM INCLUDES A PASS-THROUGH
29 ENTITY.

30 "CONTRIBUTION." A DONATION OF CASH, PERSONAL PROPERTY OR

1 SERVICES THE VALUE OF WHICH IS THE NET COST OF THE DONATION TO
2 THE DONOR OR THE PRO RATA HOURLY WAGE, INCLUDING BENEFITS, OF
3 THE INDIVIDUAL PERFORMING THE SERVICES.

4 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
5 DEVELOPMENT OF THE COMMONWEALTH.

6 "EDUCATIONAL IMPROVEMENT ORGANIZATION." A NONPROFIT ENTITY
7 WHICH:

8 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)
9 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,
10 26 U.S.C. § 1 ET SEQ.); AND

11 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL RECEIPTS AS
12 GRANTS TO A PUBLIC SCHOOL FOR INNOVATIVE EDUCATIONAL
13 PROGRAMS.

14 FOR PURPOSES OF THIS DEFINITION, A NONPROFIT ENTITY
15 "CONTRIBUTES" ITS ANNUAL CASH RECEIPTS WHEN IT EXPENDS OR
16 OTHERWISE IRREVOCABLY ENCUMBERS THOSE FUNDS FOR EXPENDITURE
17 DURING THE THEN CURRENT FISCAL YEAR OF THE NONPROFIT ENTITY OR
18 DURING THE NEXT SUCCEEDING FISCAL YEAR OF THE NONPROFIT ENTITY.

19 "ELIGIBLE PRE-KINDERGARTEN STUDENT." A STUDENT, INCLUDING AN
20 ELIGIBLE STUDENT WITH A DISABILITY, WHO IS ENROLLED IN A PRE-
21 KINDERGARTEN PROGRAM AND IS A MEMBER OF A HOUSEHOLD WITH A
22 MAXIMUM ANNUAL HOUSEHOLD INCOME AS INCREASED BY THE APPLICABLE
23 INCOME ALLOWANCE.

24 "ELIGIBLE STUDENT." A SCHOOL-AGE STUDENT, INCLUDING AN
25 ELIGIBLE STUDENT WITH A DISABILITY, WHO IS ENROLLED IN A SCHOOL
26 AND IS A MEMBER OF A HOUSEHOLD WITH A MAXIMUM ANNUAL HOUSEHOLD
27 INCOME AS INCREASED BY THE APPLICABLE INCOME ALLOWANCE.

28 "ELIGIBLE STUDENT WITH A DISABILITY." A PRE-KINDERGARTEN
29 STUDENT OR A SCHOOL-AGE STUDENT WHO MEETS ALL OF THE FOLLOWING:

30 (1) IS EITHER ENROLLED IN A SPECIAL EDUCATION SCHOOL OR

1 HAS OTHERWISE BEEN IDENTIFIED, IN ACCORDANCE WITH 22 PA. CODE
2 CH. 14 (RELATING TO SPECIAL EDUCATION SERVICES AND PROGRAMS),
3 AS A "CHILD WITH A DISABILITY," AS DEFINED IN 34 CFR § 300.8
4 (RELATING TO CHILD WITH DISABILITY).

5 (2) NEEDS SPECIAL EDUCATION AND RELATED SERVICES.

6 (3) IS ENROLLED IN A PRE-KINDERGARTEN PROGRAM OR IN A
7 SCHOOL.

8 (4) IS A MEMBER OF A HOUSEHOLD WITH A HOUSEHOLD INCOME
9 OF NOT MORE THAN THE MAXIMUM ANNUAL HOUSEHOLD INCOME.

10 "HOUSEHOLD." AN INDIVIDUAL LIVING ALONE OR WITH THE
11 FOLLOWING: A SPOUSE, PARENT AND THEIR UNEMANCIPATED MINOR
12 CHILDREN; AND OTHER UNEMANCIPATED MINOR CHILDREN WHO ARE RELATED
13 BY BLOOD OR MARRIAGE; OR OTHER ADULTS OR UNEMANCIPATED MINOR
14 CHILDREN LIVING IN THE HOUSEHOLD WHO ARE DEPENDENT UPON THE
15 INDIVIDUAL.

16 "HOUSEHOLD INCOME." ALL MONEYS OR PROPERTY RECEIVED OF
17 WHATEVER NATURE AND FROM WHATEVER SOURCE DERIVED. THE TERM DOES
18 NOT INCLUDE THE FOLLOWING:

19 (1) PERIODIC PAYMENTS FOR SICKNESS AND DISABILITY OTHER
20 THAN REGULAR WAGES RECEIVED DURING A PERIOD OF SICKNESS OR
21 DISABILITY.

22 (2) DISABILITY, RETIREMENT OR OTHER PAYMENTS ARISING
23 UNDER WORKERS' COMPENSATION ACTS, OCCUPATIONAL DISEASE ACTS
24 AND SIMILAR LEGISLATION BY ANY GOVERNMENT.

25 (3) PAYMENTS COMMONLY RECOGNIZED AS OLD-AGE OR
26 RETIREMENT BENEFITS PAID TO PERSONS RETIRED FROM SERVICE
27 AFTER REACHING A SPECIFIC AGE OR AFTER A STATED PERIOD OF
28 EMPLOYMENT.

29 (4) PAYMENTS COMMONLY KNOWN AS PUBLIC ASSISTANCE OR
30 UNEMPLOYMENT COMPENSATION PAYMENTS BY A GOVERNMENTAL AGENCY.

1 (5) PAYMENTS TO REIMBURSE ACTUAL EXPENSES.

2 (6) PAYMENTS MADE BY EMPLOYERS OR LABOR UNIONS FOR
3 PROGRAMS COVERING HOSPITALIZATION, SICKNESS, DISABILITY OR
4 DEATH, SUPPLEMENTAL UNEMPLOYMENT BENEFITS, STRIKE BENEFITS,
5 SOCIAL SECURITY AND RETIREMENT.

6 (7) COMPENSATION RECEIVED BY UNITED STATES SERVICEMEN
7 SERVING IN A COMBAT ZONE.
8 "INCOME ALLOWANCE."

9 (1) AS FOLLOWS:

10 (I) BEFORE JULY 1, 2011, \$10,000 FOR EACH ELIGIBLE
11 STUDENT, ELIGIBLE PRE-KINDERGARTEN STUDENT AND DEPENDENT
12 MEMBER OF THE HOUSEHOLD.

13 (II) AFTER JUNE 30, 2011, \$12,000 FOR EACH ELIGIBLE
14 STUDENT, ELIGIBLE PRE-KINDERGARTEN STUDENT AND DEPENDENT
15 MEMBER OF THE HOUSEHOLD.

16 (2) BEGINNING JULY 1, 2012, THE DEPARTMENT OF COMMUNITY
17 AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE INCOME
18 ALLOWANCE AMOUNTS UNDER PARAGRAPH (1) TO REFLECT ANY UPWARD
19 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
20 FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA
21 IN THE PRECEDING 12 MONTHS AND SHALL IMMEDIATELY SUBMIT THE
22 ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE BUREAU FOR
23 PUBLICATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

24 "INNOVATIVE EDUCATIONAL PROGRAM." AN ADVANCED ACADEMIC OR
25 SIMILAR PROGRAM THAT IS NOT PART OF THE REGULAR ACADEMIC PROGRAM
26 OF A PUBLIC SCHOOL BUT THAT ENHANCES THE CURRICULUM OR ACADEMIC
27 PROGRAM OF THE PUBLIC SCHOOL OR PROVIDES PRE-KINDERGARTEN
28 PROGRAMS TO PUBLIC SCHOOL STUDENTS.

29 "MAXIMUM ANNUAL HOUSEHOLD INCOME."

30 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), AS FOLLOWS:

1 (I) BEFORE JULY 1, 2011, NOT MORE THAN \$50,000.

2 (II) AFTER JUNE 30, 2011, NOT MORE THAN \$60,000.

3 (2) WITH RESPECT TO AN ELIGIBLE STUDENT WITH A
4 DISABILITY, AS CALCULATED BY MULTIPLYING:

5 (I) THE SUM OF:

6 (A) THE APPLICABLE AMOUNT UNDER PARAGRAPH (1);

7 AND

8 (B) THE APPLICABLE INCOME ALLOWANCE; BY

9 (II) THE APPLICABLE SUPPORT LEVEL FACTOR ACCORDING TO
10 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>

14 (3) BEGINNING JULY 1, 2012, THE DEPARTMENT OF COMMUNITY
15 AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE INCOME
16 AMOUNTS UNDER PARAGRAPHS (1) AND (2) TO REFLECT ANY UPWARD
17 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
18 FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA
19 IN THE PRECEDING 12 MONTHS AND SHALL IMMEDIATELY SUBMIT THE
20 ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE BUREAU FOR
21 PUBLICATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

22 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
23 301(N.0), A SINGLE-MEMBER LIMITED LIABILITY COMPANY TREATED AS A
24 DISREGARDED ENTITY FOR FEDERAL INCOME TAX PURPOSES OR A
25 PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION 301(N.1).

26 "PRE-KINDERGARTEN PROGRAM." A PROGRAM OF INSTRUCTION FOR
27 THREE-YEAR-OLD OR FOUR-YEAR-OLD STUDENTS THAT UTILIZES A
28 CURRICULUM ALIGNED WITH THE CURRICULUM OF THE SCHOOL WITH WHICH
29 IT IS AFFILIATED AND WHICH PROVIDES ONE OF THE FOLLOWING:

30 (1) A MINIMUM OF TWO HOURS OF INSTRUCTIONAL AND

1 DEVELOPMENTAL ACTIVITIES PER DAY AT LEAST 60 DAYS PER SCHOOL
2 YEAR.

3 (2) A MINIMUM OF TWO HOURS OF INSTRUCTIONAL AND
4 DEVELOPMENTAL ACTIVITIES PER DAY AT LEAST 20 DAYS OVER THE
5 SUMMER RECESS.

6 "PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION." A NONPROFIT
7 ENTITY WHICH:

8 (1) EITHER IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION
9 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW
10 99-514, 26 U.S.C. § 1 ET SEQ.) OR IS OPERATED AS A SEPARATE
11 SEGREGATED FUND BY A SCHOLARSHIP ORGANIZATION THAT HAS BEEN
12 QUALIFIED UNDER SECTION 1703-F; AND

13 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL CASH RECEIPTS
14 TO A PRE-KINDERGARTEN SCHOLARSHIP PROGRAM BY EXPENDING OR
15 OTHERWISE IRREVOCABLY ENCUMBERING THOSE FUNDS FOR
16 DISTRIBUTION DURING THE THEN CURRENT FISCAL YEAR OF THE
17 ORGANIZATION OR DURING THE NEXT SUCCEEDING FISCAL YEAR OF THE
18 ORGANIZATION.

19 "PRE-KINDERGARTEN SCHOLARSHIP PROGRAM." A PROGRAM TO PROVIDE
20 TUITION TO ELIGIBLE PRE-KINDERGARTEN STUDENTS TO ATTEND A PRE-
21 KINDERGARTEN PROGRAM OPERATED BY OR IN CONJUNCTION WITH A SCHOOL
22 LOCATED IN THIS COMMONWEALTH AND THAT INCLUDES AN APPLICATION
23 AND REVIEW PROCESS FOR THE PURPOSE OF MAKING AWARDS TO ELIGIBLE
24 PRE-KINDERGARTEN STUDENTS AND AWARDS SCHOLARSHIPS TO ELIGIBLE
25 PRE-KINDERGARTEN STUDENTS WITHOUT LIMITING AVAILABILITY TO ONLY
26 STUDENTS OF ONE SCHOOL.

27 "PUBLIC SCHOOL." A PUBLIC PRE-KINDERGARTEN WHERE COMPULSORY
28 ATTENDANCE REQUIREMENTS DO NOT APPLY OR A PUBLIC KINDERGARTEN,
29 ELEMENTARY SCHOOL OR SECONDARY SCHOOL AT WHICH THE COMPULSORY
30 ATTENDANCE REQUIREMENTS OF THIS COMMONWEALTH MAY BE MET AND

1 WHICH MEETS THE APPLICABLE REQUIREMENTS OF TITLE VI OF THE CIVIL
2 RIGHTS ACT OF 1964 (PUBLIC LAW 88-352, 78 STAT. 241).

3 "SCHOLARSHIP ORGANIZATION." A NONPROFIT ENTITY WHICH:

4 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)
5 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,
6 26 U.S.C. § 1 ET SEQ.); AND

7 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL CASH RECEIPTS
8 TO A SCHOLARSHIP PROGRAM.

9 FOR PURPOSES OF THIS DEFINITION, A NONPROFIT ENTITY

10 "CONTRIBUTES" ITS ANNUAL CASH RECEIPTS TO A SCHOLARSHIP PROGRAM
11 WHEN IT EXPENDS OR OTHERWISE IRREVOCABLY ENCUMBERS THOSE FUNDS
12 FOR DISTRIBUTION DURING THE THEN CURRENT FISCAL YEAR OF THE
13 NONPROFIT ENTITY OR DURING THE NEXT SUCCEEDING FISCAL YEAR OF
14 THE NONPROFIT ENTITY.

15 "SCHOLARSHIP PROGRAM." A PROGRAM TO PROVIDE TUITION TO
16 ELIGIBLE STUDENTS TO ATTEND A SCHOOL LOCATED IN THIS
17 COMMONWEALTH. A SCHOLARSHIP PROGRAM MUST INCLUDE AN APPLICATION
18 AND REVIEW PROCESS FOR THE PURPOSE OF MAKING AWARDS TO ELIGIBLE
19 STUDENTS. THE AWARD OF SCHOLARSHIPS TO ELIGIBLE STUDENTS SHALL
20 BE MADE WITHOUT LIMITING AVAILABILITY TO ONLY STUDENTS OF ONE
21 SCHOOL.

22 "SCHOOL." A PUBLIC OR NONPUBLIC PRE-KINDERGARTEN,
23 KINDERGARTEN, ELEMENTARY SCHOOL OR SECONDARY SCHOOL AT WHICH THE
24 COMPULSORY ATTENDANCE REQUIREMENTS OF THE COMMONWEALTH MAY BE
25 MET AND WHICH MEETS THE APPLICABLE REQUIREMENTS OF TITLE VI OF
26 THE CIVIL RIGHTS ACT OF 1964 (PUBLIC LAW 88-352, 78 STAT. 241).

27 "SCHOOL AGE." CHILDREN FROM THE EARLIEST ADMISSION AGE TO A
28 SCHOOL'S PRE-KINDERGARTEN OR KINDERGARTEN PROGRAM OR, WHEN NO
29 PRE-KINDERGARTEN OR KINDERGARTEN PROGRAM IS PROVIDED, THE
30 SCHOOL'S EARLIEST ADMISSION AGE FOR BEGINNERS, UNTIL THE END OF

1 THE SCHOOL YEAR THE STUDENT ATTAINS 21 YEARS OF AGE OR
2 GRADUATION FROM HIGH SCHOOL, WHICHEVER OCCURS FIRST.

3 "SPECIAL EDUCATION SCHOOL." A SCHOOL OR PROGRAM WITHIN A
4 SCHOOL THAT IS DESIGNATED SPECIFICALLY AND EXCLUSIVELY FOR
5 STUDENTS WITH ANY OF THE DISABILITIES LISTED IN 34 CFR § 300.8
6 (RELATING TO CHILD WITH DISABILITY) AND MEETS ONE OF THE
7 FOLLOWING:

8 (1) IS LICENSED UNDER THE ACT OF JANUARY 28, 1988
9 (P.L.24, NO.11), KNOWN AS THE PRIVATE ACADEMIC SCHOOLS ACT.

10 (2) IS ACCREDITED BY AN ACCREDITING ASSOCIATION APPROVED
11 BY THE STATE BOARD OF EDUCATION.

12 (3) IS A SCHOOL FOR THE BLIND OR DEAF RECEIVING
13 COMMONWEALTH APPROPRIATIONS.

14 (4) IS OPERATED BY OR UNDER THE AUTHORITY OF A BONA FIDE
15 RELIGIOUS INSTITUTION OR BY THE COMMONWEALTH OR ANY POLITICAL
16 SUBDIVISION THEREOF.

17 "SUPPORT LEVEL." THE LEVEL OF SUPPORT NEEDED BY AN ELIGIBLE
18 STUDENT WITH A DISABILITY, AS SET FORTH IN THE FOLLOWING MATRIX:

19 SUPPORT LEVEL 1 - THE STUDENT IS NOT ENROLLED IN A
20 SPECIAL EDUCATION SCHOOL.

21 SUPPORT LEVEL 2 - THE STUDENT IS ENROLLED AS A STUDENT IN
22 A SPECIAL EDUCATION SCHOOL.

23 SECTION 1703-F. QUALIFICATION AND APPLICATION.

24 (A) ESTABLISHMENT.--IN ACCORDANCE WITH SECTION 14 OF ARTICLE
25 III OF THE CONSTITUTION OF PENNSYLVANIA, AN EDUCATIONAL
26 IMPROVEMENT TAX CREDIT PROGRAM IS HEREBY ESTABLISHED TO ENHANCE
27 THE EDUCATIONAL OPPORTUNITIES AVAILABLE TO ALL STUDENTS IN THIS
28 COMMONWEALTH.

29 (B) INFORMATION.--IN ORDER TO QUALIFY UNDER THIS ARTICLE, A
30 SCHOLARSHIP ORGANIZATION, A PRE-KINDERGARTEN SCHOLARSHIP

1 ORGANIZATION OR AN EDUCATIONAL IMPROVEMENT ORGANIZATION MUST
2 SUBMIT INFORMATION TO THE DEPARTMENT THAT ENABLES THE DEPARTMENT
3 TO CONFIRM THAT THE ORGANIZATION IS EXEMPT FROM TAXATION UNDER
4 SECTION 501(C) (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC
5 LAW 99-514, 26 U.S.C. § 1 ET SEQ.).

6 (C) SCHOLARSHIP ORGANIZATIONS AND PRE-KINDERGARTEN
7 SCHOLARSHIP ORGANIZATIONS.--A SCHOLARSHIP ORGANIZATION OR PRE-
8 KINDERGARTEN SCHOLARSHIP ORGANIZATION MUST CERTIFY TO THE
9 DEPARTMENT THAT THE ORGANIZATION IS ELIGIBLE TO PARTICIPATE IN
10 THE PROGRAM ESTABLISHED UNDER THIS ARTICLE AND MUST AGREE TO
11 ANNUALLY REPORT THE FOLLOWING INFORMATION TO THE DEPARTMENT BY
12 DECEMBER 1, 2005, AND SEPTEMBER 1 OF EACH YEAR THEREAFTER:

13 (1) (I) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
14 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE PRE-
15 KINDERGARTEN STUDENTS.

16 (II) THE TOTAL AND AVERAGE AMOUNTS OF THE
17 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
18 SCHOOL YEAR TO ELIGIBLE PRE-KINDERGARTEN STUDENTS.

19 (III) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
20 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN
21 GRADES KINDERGARTEN THROUGH 8.

22 (IV) THE TOTAL AND AVERAGE AMOUNTS OF THE
23 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
24 SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES KINDERGARTEN
25 THROUGH 8.

26 (V) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
27 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN
28 GRADES 9 THROUGH 12.

29 (VI) THE TOTAL AND AVERAGE AMOUNTS OF THE
30 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING

1 SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES 9 THROUGH 12.

2 (VII) WHERE THE SCHOLARSHIP ORGANIZATION OR PRE-
3 KINDERGARTEN SCHOLARSHIP ORGANIZATION COLLECTS
4 INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE TOTAL NUMBER
5 AND THE TOTAL AMOUNT OF SCHOLARSHIPS AWARDED DURING THE
6 IMMEDIATELY PRECEDING SCHOOL YEAR TO RESIDENTS OF EACH
7 COUNTY IN WHICH THE SCHOLARSHIP ORGANIZATION OR PRE-
8 KINDERGARTEN SCHOLARSHIP ORGANIZATION AWARDED
9 SCHOLARSHIPS.

10 (2) THE INFORMATION REQUIRED UNDER PARAGRAPH (1) SHALL
11 BE SUBMITTED ON A FORM PROVIDED BY THE DEPARTMENT. NO LATER
12 THAN SEPTEMBER 1, 2005, AND MAY 1 OF EACH YEAR THEREAFTER,
13 THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH SAMPLE FORMS,
14 TOGETHER WITH THE FORMS ON WHICH THE REPORTS ARE REQUIRED TO
15 BE MADE, TO EACH LISTED SCHOLARSHIP ORGANIZATION AND PRE-
16 KINDERGARTEN SCHOLARSHIP ORGANIZATION.

17 (3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION
18 TO BE PROVIDED BY SCHOLARSHIP ORGANIZATIONS OR PRE-
19 KINDERGARTEN SCHOLARSHIP ORGANIZATIONS, EXCEPT AS EXPRESSLY
20 AUTHORIZED IN THIS ARTICLE.

21 (D) EDUCATIONAL IMPROVEMENT ORGANIZATION.--

22 (1) AN APPLICATION SUBMITTED BY AN EDUCATIONAL
23 IMPROVEMENT ORGANIZATION MUST DESCRIBE ITS PROPOSED
24 INNOVATIVE EDUCATIONAL PROGRAM OR PROGRAMS IN A FORM
25 PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT SHALL CONSULT
26 WITH THE DEPARTMENT OF EDUCATION AS NECESSARY. THE DEPARTMENT
27 SHALL REVIEW AND APPROVE OR DISAPPROVE THE APPLICATION. IN
28 ORDER TO BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM
29 ESTABLISHED UNDER THIS ARTICLE, AN EDUCATIONAL IMPROVEMENT
30 ORGANIZATION MUST AGREE TO ANNUALLY REPORT THE FOLLOWING

1 INFORMATION TO THE DEPARTMENT BY DECEMBER 1, 2005, AND
2 SEPTEMBER 1 OF EACH YEAR THEREAFTER:

3 (I) THE NAME OF THE INNOVATIVE EDUCATIONAL PROGRAM
4 OR PROGRAMS AND THE TOTAL AMOUNT OF THE GRANT OR GRANTS
5 MADE TO THOSE PROGRAMS DURING THE IMMEDIATELY PRECEDING
6 SCHOOL YEAR.

7 (II) A DESCRIPTION OF HOW EACH GRANT WAS UTILIZED
8 DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR AND A
9 DESCRIPTION OF ANY DEMONSTRATED OR EXPECTED INNOVATIVE
10 EDUCATIONAL IMPROVEMENTS.

11 (III) THE NAMES OF THE PUBLIC SCHOOLS AND SCHOOL
12 DISTRICTS WHERE INNOVATIVE EDUCATIONAL PROGRAMS THAT
13 RECEIVED GRANTS DURING THE IMMEDIATELY PRECEDING SCHOOL
14 YEAR WERE IMPLEMENTED.

15 (IV) WHERE THE EDUCATIONAL IMPROVEMENT ORGANIZATION
16 COLLECTS INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE
17 TOTAL NUMBER AND THE TOTAL AMOUNT OF GRANTS MADE DURING
18 THE IMMEDIATELY PRECEDING SCHOOL YEAR FOR PROGRAMS AT
19 PUBLIC SCHOOLS IN EACH COUNTY IN WHICH THE EDUCATIONAL
20 IMPROVEMENT ORGANIZATION MADE GRANTS.

21 (2) THE INFORMATION REQUIRED UNDER PARAGRAPH (1) SHALL
22 BE SUBMITTED ON A FORM PROVIDED BY THE DEPARTMENT. NO LATER
23 THAN SEPTEMBER 1, 2005, AND MAY 1 OF EACH YEAR THEREAFTER,
24 THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH SAMPLE FORMS,
25 TOGETHER WITH THE FORMS ON WHICH THE REPORTS ARE REQUIRED TO
26 BE MADE, TO EACH LISTED EDUCATIONAL IMPROVEMENT ORGANIZATION.

27 (3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION
28 TO BE PROVIDED BY EDUCATIONAL IMPROVEMENT ORGANIZATIONS,
29 EXCEPT AS EXPRESSLY AUTHORIZED IN THIS ARTICLE.

30 (E) NOTIFICATION.--THE DEPARTMENT SHALL NOTIFY THE

1 SCHOLARSHIP ORGANIZATION, PRE-KINDERGARTEN SCHOLARSHIP
2 ORGANIZATION OR EDUCATIONAL IMPROVEMENT ORGANIZATION THAT THE
3 ORGANIZATION MEETS THE REQUIREMENTS OF THIS ARTICLE FOR THAT
4 FISCAL YEAR NO LATER THAN 60 DAYS AFTER THE ORGANIZATION HAS
5 SUBMITTED THE INFORMATION REQUIRED UNDER THIS SECTION.

6 (F) PUBLICATION.--THE DEPARTMENT SHALL ANNUALLY PUBLISH A
7 LIST OF EACH SCHOLARSHIP ORGANIZATION, PRE-KINDERGARTEN
8 SCHOLARSHIP ORGANIZATION OR EDUCATIONAL IMPROVEMENT ORGANIZATION
9 QUALIFIED UNDER THIS SECTION IN THE PENNSYLVANIA BULLETIN. THE
10 LIST SHALL ALSO BE POSTED AND UPDATED AS NECESSARY ON THE
11 PUBLICLY ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT.
12 SECTION 1704-F. APPLICATION.

13 (A) SCHOLARSHIP ORGANIZATION OR PRE-KINDERGARTEN SCHOLARSHIP
14 ORGANIZATIONS.--A BUSINESS FIRM SHALL APPLY TO THE DEPARTMENT
15 FOR A TAX CREDIT UNDER SECTION 1705-F. A BUSINESS FIRM SHALL
16 RECEIVE A TAX CREDIT UNDER THIS ARTICLE IF THE SCHOLARSHIP
17 ORGANIZATION OR PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION THAT
18 RECEIVES THE CONTRIBUTION APPEARS ON THE LIST ESTABLISHED UNDER
19 SECTION 1703-F(F).

20 (B) EDUCATIONAL IMPROVEMENT ORGANIZATION.--A BUSINESS FIRM
21 MUST APPLY TO THE DEPARTMENT FOR A CREDIT UNDER SECTION 1705-F.
22 A BUSINESS FIRM SHALL RECEIVE A TAX CREDIT UNDER THIS ARTICLE IF
23 THE DEPARTMENT HAS APPROVED THE PROGRAM PROVIDED BY THE
24 EDUCATIONAL IMPROVEMENT ORGANIZATION THAT RECEIVES THE
25 CONTRIBUTION.

26 (C) AVAILABILITY OF TAX CREDITS.--TAX CREDITS UNDER THIS
27 ARTICLE SHALL BE MADE AVAILABLE BY THE DEPARTMENT ON A FIRST-
28 COME, FIRST-SERVED BASIS WITHIN THE LIMITATION ESTABLISHED UNDER
29 SECTION 1706-F(A).

30 (D) CONTRIBUTIONS.--A CONTRIBUTION BY A BUSINESS FIRM TO A

1 SCHOLARSHIP ORGANIZATION, PRE-KINDERGARTEN SCHOLARSHIP
2 ORGANIZATION OR EDUCATIONAL IMPROVEMENT ORGANIZATION SHALL BE
3 MADE NO LATER THAN 60 DAYS FOLLOWING THE APPROVAL OF AN
4 APPLICATION UNDER SUBSECTION (A) OR (B).
5 SECTION 1705-F. TAX CREDIT.

6 (A) SCHOLARSHIP OR EDUCATIONAL IMPROVEMENT ORGANIZATIONS.--
7 IN ACCORDANCE WITH SECTION 1706-F(A), THE DEPARTMENT OF REVENUE
8 SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III,
9 IV, VI, VII, VIII, IX OR XV TO A BUSINESS FIRM PROVIDING PROOF
10 OF A CONTRIBUTION TO A SCHOLARSHIP ORGANIZATION OR EDUCATIONAL
11 IMPROVEMENT ORGANIZATION IN THE TAXABLE YEAR IN WHICH THE
12 CONTRIBUTION IS MADE WHICH SHALL NOT EXCEED 75% OF THE TOTAL
13 AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY THE BUSINESS FIRM.
14 SUCH CREDIT SHALL NOT EXCEED \$300,000 ANNUALLY PER BUSINESS FIRM
15 FOR CONTRIBUTIONS MADE TO SCHOLARSHIP ORGANIZATIONS OR
16 EDUCATIONAL IMPROVEMENT ORGANIZATIONS.

17 (B) ADDITIONAL AMOUNT.--THE DEPARTMENT OF REVENUE SHALL
18 GRANT A TAX CREDIT OF UP TO 90% OF THE TOTAL AMOUNT CONTRIBUTED
19 DURING THE TAXABLE YEAR IF THE BUSINESS FIRM PROVIDES A WRITTEN
20 COMMITMENT TO PROVIDE THE SCHOLARSHIP ORGANIZATION OR
21 EDUCATIONAL IMPROVEMENT ORGANIZATION WITH THE SAME AMOUNT OF
22 CONTRIBUTION FOR TWO CONSECUTIVE TAX YEARS. THE BUSINESS FIRM
23 MUST PROVIDE THE WRITTEN COMMITMENT UNDER THIS SUBSECTION TO THE
24 DEPARTMENT AT THE TIME OF APPLICATION.

25 (C) PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATIONS.--IN
26 ACCORDANCE WITH SECTION 1706-F(A), THE DEPARTMENT OF REVENUE
27 SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III,
28 IV, VI, VII, VIII, IX OR XV TO A BUSINESS FIRM PROVIDING PROOF
29 OF A CONTRIBUTION TO A PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION
30 IN THE TAXABLE YEAR IN WHICH THE CONTRIBUTION IS MADE WHICH

1 SHALL BE EQUAL TO 100% OF THE FIRST \$10,000 CONTRIBUTED DURING
2 THE TAXABLE YEAR BY THE BUSINESS FIRM, AND WHICH SHALL NOT
3 EXCEED 90% OF THE REMAINING AMOUNT CONTRIBUTED DURING THE
4 TAXABLE YEAR BY THE BUSINESS FIRM. SUCH CREDIT SHALL NOT EXCEED
5 \$150,000 ANNUALLY PER BUSINESS FIRM FOR CONTRIBUTIONS MADE TO
6 PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATIONS.

7 (D) COMBINATION OF TAX CREDITS.--A BUSINESS FIRM MAY RECEIVE
8 TAX CREDITS FROM THE DEPARTMENT OF REVENUE IN ANY TAX YEAR FOR
9 ANY COMBINATION OF CONTRIBUTIONS UNDER SUBSECTION (A) OR (B) OR
10 (C). IN NO CASE MAY A BUSINESS FIRM RECEIVE TAX CREDITS IN ANY
11 TAX YEAR IN EXCESS OF \$300,000 FOR CONTRIBUTIONS UNDER
12 SUBSECTIONS (A) AND (B). IN NO CASE SHALL A BUSINESS FIRM
13 RECEIVE TAX CREDITS IN ANY TAX YEAR IN EXCESS OF \$150,000 FOR
14 CONTRIBUTIONS UNDER SUBSECTION (C).

15 (E) PASS-THROUGH ENTITY.--

16 (1) IF A PASS-THROUGH ENTITY DOES NOT INTEND TO USE ALL
17 APPROVED TAX CREDITS UNDER THIS SECTION, IT MAY ELECT IN
18 WRITING TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
19 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE
20 OF THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
21 MEMBER OR PARTNER IS ENTITLED FOR USE IN THE TAXABLE YEAR IN
22 WHICH THE CONTRIBUTION IS MADE OR IN THE TAXABLE YEAR
23 IMMEDIATELY FOLLOWING THE YEAR IN WHICH THE CONTRIBUTION IS
24 MADE. THE ELECTION SHALL DESIGNATE THE YEAR IN WHICH THE
25 TRANSFERRED CREDITS ARE TO BE USED AND SHALL BE MADE
26 ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF
27 REVENUE.

28 (2) A PASS-THROUGH ENTITY AND A SHAREHOLDER, MEMBER OR
29 PARTNER OF A PASS-THROUGH ENTITY SHALL NOT CLAIM THE CREDIT
30 UNDER THIS SECTION FOR THE SAME CONTRIBUTION.

1 (3) THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT CARRY
2 FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN THE
3 CREDIT.

4 (F) RESTRICTION ON APPLICABILITY OF CREDITS.--NO CREDITS
5 GRANTED UNDER THIS SECTION SHALL BE APPLIED AGAINST ANY TAX
6 WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

7 (G) TIME OF APPLICATION FOR CREDITS.--

8 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3), THE
9 DEPARTMENT MAY ACCEPT APPLICATIONS FOR TAX CREDITS AVAILABLE
10 DURING A FISCAL YEAR NO EARLIER THAN JULY 1 OF EACH FISCAL
11 YEAR.

12 (2) THE APPLICATION OF ANY BUSINESS FIRM FOR TAX CREDITS
13 AVAILABLE DURING A FISCAL YEAR AS PART OF THE SECOND YEAR OF
14 A TWO-YEAR COMMITMENT MAY BE ACCEPTED NO EARLIER THAN MAY 15
15 PRECEDING THE FISCAL YEAR.

16 (3) THE APPLICATION UNDER SUBSECTION (A) OF ANY PASS-
17 THROUGH ENTITY FOR APPROVAL OF SINGLE-YEAR TAX CREDITS
18 AVAILABLE DURING A FISCAL YEAR AGAINST THE TAXES IMPOSED
19 UNDER ARTICLE III OR UNDER SUBSECTION (B) FOR APPROVAL OF
20 CREDITS AGAINST SUCH TAXES FOR THE FIRST YEAR OF A TWO-YEAR
21 COMMITMENT MAY BE ACCEPTED BY THE DEPARTMENT NO EARLIER THAN
22 THE FIRST BUSINESS DAY FOLLOWING JULY 7 OF THE FISCAL YEAR.

23 SECTION 1706-F. LIMITATIONS.

24 (A) AMOUNT.--

25 (1) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
26 APPROVED SHALL NOT EXCEED \$67,000,000 IN A FISCAL YEAR. NO
27 LESS THAN \$44,666,667 OF THE TOTAL AGGREGATE AMOUNT SHALL BE
28 USED TO PROVIDE TAX CREDITS FOR CONTRIBUTIONS FROM BUSINESS
29 FIRMS TO SCHOLARSHIP ORGANIZATIONS. NO LESS THAN \$22,333,333
30 OF THE TOTAL AGGREGATE AMOUNT SHALL BE USED TO PROVIDE TAX

1 CREDITS FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO EDUCATIONAL
2 IMPROVEMENT ORGANIZATIONS.

3 (2) (I) FOR THE FISCAL YEARS 2004-2005, 2005-2006 AND
4 2006-2007, THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
5 APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO PRE-
6 KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED
7 \$5,000,000 IN A FISCAL YEAR.

8 (II) FOR THE FISCAL YEAR 2007-2008 AND EACH FISCAL
9 YEAR THEREAFTER, THE TOTAL AGGREGATE AMOUNT OF ALL TAX
10 CREDITS APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO
11 PRE-KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED
12 \$8,000,000 IN A FISCAL YEAR.

13 (B) ACTIVITIES.--NO TAX CREDIT SHALL BE APPROVED FOR
14 ACTIVITIES THAT ARE A PART OF A BUSINESS FIRM'S NORMAL COURSE OF
15 BUSINESS.

16 (C) TAX LIABILITY.--

17 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A TAX CREDIT
18 GRANTED FOR ANY ONE TAXABLE YEAR MAY NOT EXCEED THE TAX
19 LIABILITY OF A BUSINESS FIRM.

20 (2) IN THE CASE OF A CREDIT GRANTED TO A PASS-THROUGH
21 ENTITY WHICH ELECTS TO TRANSFER THE CREDIT ACCORDING TO
22 SECTION 1705-F(E), A TAX CREDIT GRANTED FOR ANY ONE TAXABLE
23 YEAR AND TRANSFERRED TO A SHAREHOLDER, MEMBER OR PARTNER MAY
24 NOT EXCEED THE TAX LIABILITY OF THE SHAREHOLDER, MEMBER OR
25 PARTNER.

26 (D) USE.--A TAX CREDIT NOT USED BY THE APPLICANT IN THE
27 TAXABLE YEAR THE CONTRIBUTION WAS MADE OR IN THE YEAR DESIGNATED
28 BY THE SHAREHOLDER, MEMBER OR PARTNER TO WHOM THE CREDIT WAS
29 TRANSFERRED UNDER SECTION 1705-F(E) MAY NOT BE CARRIED FORWARD
30 OR CARRIED BACK AND IS NOT REFUNDABLE OR TRANSFERABLE.

1 (E) NONTAXABLE INCOME.--A SCHOLARSHIP RECEIVED BY AN
2 ELIGIBLE STUDENT OR ELIGIBLE PRE-KINDERGARTEN STUDENT SHALL NOT
3 BE CONSIDERED TO BE TAXABLE INCOME FOR THE PURPOSES OF ARTICLE
4 III.

5 SECTION 1707-F. LISTS.

6 THE DEPARTMENT OF REVENUE SHALL PROVIDE A LIST OF ALL
7 SCHOLARSHIP ORGANIZATIONS, PRE-KINDERGARTEN SCHOLARSHIP
8 ORGANIZATIONS AND EDUCATIONAL IMPROVEMENT ORGANIZATIONS
9 RECEIVING CONTRIBUTIONS FROM BUSINESS FIRMS GRANTED A TAX CREDIT
10 UNDER THIS ARTICLE TO THE GENERAL ASSEMBLY BY JUNE 30 OF EACH
11 YEAR.

12 SECTION 1708-F. GUIDELINES.

13 THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF
14 EDUCATION SHALL DEVELOP GUIDELINES TO DETERMINE THE ELIGIBILITY
15 OF AN INNOVATIVE EDUCATIONAL PROGRAM.

16 SECTION 10. ARTICLE XXIX-A OF THE ACT, ADDED JUNE 30, 1995
17 (P.L.139, NO.21), IS AMENDED TO READ:

18 [ARTICLE XXIX-A
19 TAX AMNESTY PROGRAM

20 SECTION 2901-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
21 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
22 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
23 CLEARLY INDICATES A DIFFERENT MEANING:

24 "AMNESTY PERIOD." THE TIME PERIOD OF NINETY CONSECUTIVE DAYS
25 ESTABLISHED BY THE GOVERNOR DURING THE FISCAL YEAR BEGINNING
26 JULY 1, 1995, AND ENDING JUNE 30, 1996.

27 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

28 "ELIGIBLE TAX." ANY TAX IMPOSED BY THE COMMONWEALTH FOR
29 DEPOSIT IN THE GENERAL FUND OR THE MOTOR LICENSE FUND OR THE
30 LIQUID FUELS TAX FUND FOR TAXES DELINQUENT AS OF DECEMBER 31,

1 1993. THE TERM INCLUDES ANY INTEREST OR PENALTY ON AN ELIGIBLE
2 TAX. THE TERM EXCLUDES ANY TAX IMPOSED BY A POLITICAL
3 SUBDIVISION.

4 "PROGRAM." THE TAX AMNESTY PROGRAM AS PROVIDED FOR IN THIS
5 ARTICLE.

6 "TAXPAYER." ANY PERSON, ASSOCIATION, FIDUCIARY, PARTNERSHIP,
7 CORPORATION OR OTHER ENTITY REQUIRED TO PAY OR COLLECT ANY OF
8 THE ELIGIBLE TAXES. THE TERM SHALL NOT INCLUDE A TAXPAYER WHO,
9 PRIOR TO THE AMNESTY PERIOD HAS RECEIVED NOTICE THAT HE IS THE
10 SUBJECT OF A CRIMINAL INVESTIGATION FOR AN ALLEGED VIOLATION OF
11 ANY LAW IMPOSING AN ELIGIBLE TAX OR WHO, PRIOR TO THE AMNESTY
12 PERIOD, HAS BEEN NAMED AS A DEFENDANT IN A CRIMINAL COMPLAINT
13 ALLEGING A VIOLATION OF ANY LAW IMPOSING AN ELIGIBLE TAX OR IS A
14 DEFENDANT IN A PENDING CRIMINAL ACTION FOR AN ALLEGED VIOLATION
15 OF ANY LAW IMPOSING AN ELIGIBLE TAX.

16 SECTION 2902-A. ESTABLISHMENT OF AMNESTY PROGRAM.-- (A)
17 THERE IS HEREBY ESTABLISHED A TAX AMNESTY PROGRAM WHICH SHALL BE
18 ADMINISTERED BY THE DEPARTMENT.

19 (B) THE PROGRAM SHALL APPLY TO A TAXPAYER WHO IS DELINQUENT
20 ON PAYMENT OF A LIABILITY FOR AN ELIGIBLE TAX AS OF JUNE 1,
21 1995, INCLUDING A LIABILITY FOR RETURNS NOT FILED, LIABILITIES
22 ACCORDING TO RECORDS OF THE DEPARTMENT AS OF JUNE 1, 1995,
23 LIABILITIES NOT REPORTED, UNDERREPORTED OR NOT ESTABLISHED, BUT
24 DELINQUENT AS OF JUNE 1, 1995.

25 SECTION 2903-A. REQUIRED PAYMENT.-- (A) SUBJECT TO SECTION
26 2904-A, ALL TAXPAYERS WHO PARTICIPATE IN THE PROGRAM SHALL
27 COMPLY WITH ALL OF THE FOLLOWING:

28 (1) DURING THE AMNESTY PERIOD, FILE A TAX AMNESTY RETURN IN
29 SUCH FORM AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT
30 SHALL REQUIRE. A TAX AMNESTY RETURN SHALL BE CONSIDERED TO BE

1 TIMELY FILED IF IT IS POSTMARKED DURING THE AMNESTY PERIOD.

2 (2) DURING THE AMNESTY PERIOD, MAKE PAYMENT OF ALL TAXES AND
3 INTEREST DUE THE COMMONWEALTH IN ACCORDANCE WITH THE TAX AMNESTY
4 RETURN THAT IS FILED.

5 (3) FILE COMPLETE TAX RETURNS FOR ALL YEARS FOR WHICH THE
6 TAXPAYER PREVIOUSLY HAS NOT FILED A TAX RETURN AND FILE COMPLETE
7 AMENDED RETURNS FOR ALL YEARS FOR WHICH THE TAXPAYER
8 UNDERREPORTED ELIGIBLE TAX LIABILITY.

9 (B) THE DEPARTMENT SHALL NOT COLLECT THE PENALTIES OWED BY A
10 TAXPAYER WHO PARTICIPATES IN THE PROGRAM UNDER SUBSECTION (A).
11 THE DEPARTMENT SHALL NOT PURSUE AN ADMINISTRATIVE OR JUDICIAL
12 PROCEEDING AGAINST A TAXPAYER WITH RESPECT TO ANY ELIGIBLE TAX
13 THAT IS DISCLOSED ON A TAX AMNESTY RETURN.

14 SECTION 2904-A. AMNESTY CONTINGENT ON CONTINUED
15 COMPLIANCE.--NOTWITHSTANDING ANY OTHER PROVISION OF THIS
16 ARTICLE, THE DEPARTMENT MAY ASSESS AND COLLECT FROM A TAXPAYER
17 ALL PENALTIES FOREGONE THROUGH THE TAX AMNESTY PROGRAM
18 ESTABLISHED IN THIS ARTICLE IF, WITHIN TWO YEARS AFTER THE END
19 OF THE AMNESTY PROGRAM, EITHER OF THE FOLLOWING OCCURS:

20 (1) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE BECOMES
21 DELINQUENT FOR THREE CONSECUTIVE PERIODS IN PAYMENT OF TAXES DUE
22 OR FILING OF RETURNS REQUIRED ON A SEMIMONTHLY, MONTHLY,
23 QUARTERLY OR OTHER BASIS AND THE TAXPAYER HAS NOT CONTESTED THE
24 TAX LIABILITY THROUGH A TIMELY VALID ADMINISTRATIVE OR JUDICIAL
25 APPEAL; OR

26 (2) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE BECOMES
27 DELINQUENT AND IS EIGHT OR MORE MONTHS LATE IN PAYMENT OF TAXES
28 DUE OR FILING OF RETURNS ON AN ANNUAL BASIS AND THE TAXPAYER HAS
29 NOT CONTESTED THE LIABILITY THROUGH A TIMELY VALID
30 ADMINISTRATIVE OR JUDICIAL APPEAL.

1 SECTION 2905-A. LIMITATION OF DEFICIENCY ASSESSMENT.--IF,
2 SUBSEQUENT TO THE AMNESTY PERIOD, THE DEPARTMENT ISSUES A
3 DEFICIENCY ASSESSMENT WITH RESPECT TO A TAX AMNESTY RETURN, THE
4 DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE PENALTIES AND TO
5 PURSUE A CRIMINAL ACTION ONLY WITH RESPECT TO THE DIFFERENCE
6 BETWEEN THE AMOUNT SHOWN ON THAT TAX AMNESTY RETURN AND THE
7 CURRENT AMOUNT OF TAX.

8 SECTION 2906-A. OVERPAYMENT OF TAX.--NOTWITHSTANDING ANY
9 OTHER PROVISIONS OF THIS OR ANY OTHER ACT, IF AN OVERPAYMENT OF
10 ELIGIBLE TAX IS REFUNDED OR CREDITED WITHIN ONE HUNDRED EIGHTY
11 DAYS AFTER THE TAX AMNESTY RETURN IS FILED, NO INTEREST SHALL BE
12 ALLOWED ON THE OVERPAYMENT.

13 SECTION 2907-A. PREVIOUSLY PAID INTEREST AND PENALTIES.--NO
14 REFUND OR CREDIT SHALL BE ALLOWED FOR ANY INTEREST OR PENALTY ON
15 ELIGIBLE TAXES PAID TO THE DEPARTMENT PRIOR TO THE AMNESTY
16 PERIOD.

17 SECTION 2908-A. PROCEEDINGS RELATING TO TAX AMNESTY RETURN
18 BARRED.--PARTICIPATION IN THE PROGRAM IS CONDITIONED UPON THE
19 TAXPAYER'S AGREEMENT THAT THE RIGHT TO PROTEST OR PURSUE AN
20 ADMINISTRATIVE OR JUDICIAL PROCEEDING WITH REGARD TO TAX AMNESTY
21 RETURNS FILED UNDER THE PROGRAM OR TO CLAIM ANY REFUND OF MONEY
22 PAID UNDER THE PROGRAM IS BARRED.

23 SECTION 2909-A. UNDISCLOSED LIABILITIES.--NOTHING IN THIS
24 ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE DEPARTMENT FROM
25 INSTITUTING CIVIL OR CRIMINAL PROCEEDINGS AGAINST ANY TAXPAYER
26 WITH RESPECT TO ANY AMOUNT OF TAX THAT IS NOT DISCLOSED ON THE
27 TAX AMNESTY RETURN.

28 SECTION 2910-A. DUTIES OF DEPARTMENT.--(A) THE DEPARTMENT
29 SHALL DEVELOP REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS
30 ARTICLE. THE REGULATIONS MUST BE PUBLISHED IN THE PENNSYLVANIA

1 BULLETIN WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS
2 ARTICLE AND SHALL CONTAIN, BUT NOT BE LIMITED TO, THE FOLLOWING
3 INFORMATION:

4 (1) AN EXPLANATION OF THE PROGRAM AND THE REQUIREMENTS FOR
5 ELIGIBILITY FOR THE PROGRAM.

6 (2) THE DATES DURING WHICH A TAX AMNESTY RETURN MAY BE
7 FILED.

8 (3) A SPECIMEN COPY OF THE TAX AMNESTY RETURN.

9 (B) THE DEPARTMENT SHALL PUBLICIZE THE PROGRAM TO MAXIMIZE
10 PUBLIC AWARENESS OF AND PARTICIPATION IN THE PROGRAM. THE
11 DEPARTMENT SHALL COORDINATE TO THE HIGHEST DEGREE POSSIBLE ITS
12 PUBLICITY EFFORTS AND OTHER ACTIONS TAKEN TO IMPLEMENT THIS
13 ARTICLE.

14 (C) REPORT.--THE DEPARTMENT SHALL ISSUE A REPORT TO THE
15 GENERAL ASSEMBLY WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE END OF
16 THE AMNESTY PERIOD DETAILING THE IMPLEMENTATION OF THE PROGRAM.
17 THE REPORT SHALL CONTAIN, BUT NOT BE LIMITED TO, THE FOLLOWING
18 INFORMATION:

19 (1) A DETAILED BREAKDOWN OF THE DEPARTMENT'S ADMINISTRATIVE
20 COSTS IN IMPLEMENTING THE PROGRAM.

21 (2) THE NUMBER OF TAX AMNESTY RETURNS FILED AND A BREAKDOWN
22 OF THE NUMBER AND DOLLAR AMOUNT OF REVENUE RAISED FOR EACH TAX
23 BY CALENDAR YEAR DURING WHICH THE TAX PERIOD ENDED. IN ADDITION,
24 THE GROSS REVENUES SHALL BE BROKEN DOWN INTO THE FOLLOWING
25 CATEGORIES:

26 (I) AMOUNTS REPRESENTED BY ASSESSMENTS RECEIVABLE
27 ESTABLISHED BY THE DEPARTMENT ON OR BEFORE THE FIRST DAY OF THE
28 AMNESTY PERIOD.

29 (II) ALL OTHER AMOUNTS.

30 (3) THE TOTAL DOLLAR AMOUNT OF REVENUE COLLECTED BY THE

1 PROGRAM.

2 (4) THE TOTAL DOLLAR AMOUNT OF PENALTIES FORGIVEN UNDER THE
3 PROGRAM.

4 (5) THE DEMOGRAPHIC CHARACTERISTICS OF TAX AMNESTY
5 PARTICIPANTS, INCLUDING STANDARD INDUSTRIAL CODES OF
6 PARTICIPANTS, TYPE OF TAXPAYER (INDIVIDUAL, PARTNERSHIP,
7 CORPORATION OR OTHER ENTITY), SIZE OF TAX LIABILITY AND
8 GEOGRAPHICAL LOCATION.

9 (D) THE DEPARTMENT SHALL NOTIFY IN WRITING ALL KNOWN TAX
10 DELINQUENTS AT THEIR LAST KNOWN ADDRESS OF THE EXISTENCE OF THE
11 TAX AMNESTY PROGRAM. THE SOLE PURPOSE OF THE LETTER SENT BY THE
12 DEPARTMENT TO TAXPAYERS MUST BE NOTIFICATION OF THE PROGRAM.

13 SECTION 2911-A. METHOD OF PAYMENT.--ALL TAX PAYMENTS UNDER
14 THE PROGRAM SHALL BE MADE BY CERTIFIED CHECK, MONEY ORDER, CASH
15 OR ITS EQUIVALENT.

16 SECTION 2912-A. EXEMPTION FROM REVIEW PROCESS.--
17 NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE REGULATIONS ISSUED
18 BY THE DEPARTMENT FOR THE PROGRAM SHALL BE EXEMPT FROM THE
19 REGULATORY REVIEW PROCESS PROVIDED IN THE ACT OF JUNE 25, 1982
20 (P.L.633, NO.181), KNOWN AS THE "REGULATORY REVIEW ACT."

21 SECTION 2913-A. USE OF REVENUE.--ALL REVENUE GENERATED BY
22 THIS ARTICLE SHALL BE DEPOSITED INTO A RESTRICTED REVENUE
23 ACCOUNT IN THE GENERAL FUND. REVENUE FROM THE RESTRICTED REVENUE
24 ACCOUNT SHALL BE DISTRIBUTED AS FOLLOWS:

25 (1) REPAYMENT OF ANY COST FOR ADMINISTRATION OF THE PROGRAM
26 TO THE DEPARTMENT.

27 (2) AN AMOUNT NOT EXCEEDING SIXTY-SEVEN MILLION DOLLARS
28 (\$67,000,000) FROM GENERAL FUND SOURCES SHALL BE DEPOSITED INTO
29 THE GENERAL FUND. IF DELINQUENT TAX COLLECTIONS IN THE GENERAL
30 FUND FOR FISCAL YEAR 1995-1996 FALL BELOW THE LEVEL OF THE

1 PREVIOUS YEAR, AN ADDITIONAL AMOUNT EQUAL TO THE DIFFERENCE
2 SHALL BE DEPOSITED INTO THE GENERAL FUND.

3 (3) ALL REVENUE FROM MOTOR LICENSE FUND SOURCES SHALL BE
4 DEPOSITED IN THE MOTOR LICENSE FUND NO LATER THAN JUNE 30, 1996.

5 (4) ALL REVENUE FROM LIQUID FUELS TAX FUND SOURCES SHALL BE
6 DEPOSITED IN THE LIQUID FUELS TAX FUND NO LATER THAN JUNE 30,
7 1996.

8 SECTION 2914-A. PENALTIES FOR CERTAIN CORPORATE OFFICERS.--
9 IF AN OFFICER OR OFFICERS OF A CORPORATION OR ASSOCIATION
10 INTENTIONALLY NEGLECT OR REFUSE TO MAKE REPORTS TO THE AUDITOR
11 GENERAL, OR TO THE DEPARTMENT, OR SUCCESSIVELY TO THE AUDITOR
12 GENERAL AND TO THE DEPARTMENT, AS REQUIRED BY LAW, FOR ANY TWO
13 SUCCESSIVE TAX YEARS, THE OFFICER OR OFFICERS COMMIT A
14 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
15 FINE OF NOT LESS THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500)
16 NOR MORE THAN FIVE THOUSAND DOLLARS (\$5,000). THIS FINE SHALL BE
17 IN ADDITION TO ANY FINE OR PRISON SENTENCE UNDER SECTION 1704 OF
18 THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL
19 CODE."

20 SECTION 2915-A. FURTHER EXAMINATION OF BOOKS AND RECORDS.--

21 (A) THE DEPARTMENT OR ANY OF ITS AUTHORIZED AGENTS IS HEREBY
22 AUTHORIZED TO EXAMINE THE BOOKS, PAPERS AND RECORDS OF ANY
23 TAXPAYER OR OTHER PERSONS IN ORDER TO VERIFY THE ACCURACY AND
24 COMPLETENESS OF ANY RETURN OR REPORT MADE OR, IF NO RETURN OR
25 REPORT WAS MADE, TO ASCERTAIN AND ASSESS ANY TAX OR OTHER
26 LIABILITY OWED THE COMMONWEALTH.

27 (B) THE DEPARTMENT MAY DETERMINE, BY DESK, FIELD OR OTHER
28 AUDIT, THE AMOUNT OF TAX OR OTHER LIABILITY REQUIRED TO BE PAID
29 TO THE COMMONWEALTH. THE DEPARTMENT MAY DETERMINE THE LIABILITY
30 BASED UPON THE FACTS CONTAINED IN THE RETURN OR REPORT BEING

1 AUDITED OR OTHER INFORMATION IN THE DEPARTMENT'S POSSESSION. THE
2 DEPARTMENT MAY DETERMINE THE LIABILITY BASED UPON A REASONABLE
3 STATISTICAL SAMPLE OR TEST AUDIT PERFORMED IN ACCORDANCE WITH
4 THE REGULATIONS OF THE DEPARTMENT WHEN THE INDIVIDUAL BEING
5 AUDITED DOES NOT HAVE COMPLETE RECORDS OF TRANSACTIONS OR WHEN
6 THE REVIEW OF EACH TRANSACTION OR INVOICE WOULD PLACE AN UNDUE
7 BURDEN ON THE DEPARTMENT TO CONDUCT AN AUDIT IN A TIMELY AND
8 EFFICIENT MANNER.

9 (C) THE TAXPAYER MAY CHALLENGE THE ACCURACY OF A STATISTICAL
10 SAMPLE OR TEST AUDIT BY PROVIDING CLEAR AND CONVINCING EVIDENCE
11 THAT THE METHOD USED FOR A STATISTICAL SAMPLE OR TEST AUDIT IS
12 ERRONEOUS, LACKS A RATIONAL BASIS OR PRODUCES A DIFFERENT RESULT
13 WHEN THE COMPLETE RECORDS ARE CONSIDERED.

14 SECTION 2916-A. ADDITIONAL PENALTY.--(A) SUBJECT TO THE
15 LIMITATIONS PROVIDED UNDER SUBSECTION (B), A PENALTY OF FIFTEEN
16 PER CENT OF THE UNPAID TAX LIABILITY AND PENALTIES AND INTEREST
17 SHALL BE LEVIED AGAINST A TAXPAYER SUBJECT TO AN ELIGIBLE TAX IF
18 THE TAXPAYER HAD FAILED TO REMIT AN ELIGIBLE TAX DUE OR HAD AN
19 UNREPORTED OR UNDERREPORTED LIABILITY FOR AN ELIGIBLE TAX ON OR
20 AFTER THE FIRST DAY FOLLOWING THE END OF THE AMNESTY PERIOD.

21 (B) THE PENALTY PROVIDED IN THIS SECTION SHALL NOT APPLY TO
22 A TAXPAYER WHO:

23 (1) HAS PAID THE LIABILITY IN FULL OR ENTERED INTO A DULY
24 APPROVED AND EXECUTED DEFERRED PAYMENT PLAN ON OR BEFORE THE
25 LAST DAY OF THE AMNESTY PERIOD; OR

26 (2) HAS FILED A TIMELY AND VALID ADMINISTRATIVE OR JUDICIAL
27 APPEAL CONTESTING THE LIABILITY ON OR BEFORE THE LAST DAY OF THE
28 AMNESTY PERIOD.

29 (C) THE PENALTY PROVIDED BY THIS SECTION SHALL BE IN
30 ADDITION TO ALL OTHER PENALTIES PROVIDED BY LAW.

1 SECTION 2917-A. APPLICATION OF PENALTY AND POWERS.--SECTIONS
2 2914-A AND 2915-A OF THIS ARTICLE SHALL APPLY TO ALL TAXES
3 COLLECTED BY THE DEPARTMENT.

4 SECTION 2918-A. CONSTRUCTION.--EXCEPT AS EXPRESSLY PROVIDED
5 IN THIS ARTICLE, THIS ARTICLE SHALL NOT:

6 (1) BE CONSTRUED TO RELIEVE ANY PERSON, CORPORATION OR OTHER
7 ENTITY FROM THE FILING OF RETURNS OR FROM ANY TAXES, PENALTIES
8 OR INTEREST IMPOSED BY THE PROVISIONS OF ANY LAWS;

9 (2) AFFECT OR TERMINATE ANY PETITIONS, INVESTIGATIONS,
10 PROSECUTIONS, LEGAL OR OTHERWISE, OR OTHER PROCEEDINGS PENDING
11 UNDER THE PROVISIONS OF ANY SUCH LAWS; OR

12 (3) PREVENT THE COMMENCEMENT OR FURTHER PROSECUTION OF ANY
13 PROCEEDINGS BY THE PROPER AUTHORITIES OF THE COMMONWEALTH FOR
14 VIOLATION OF ANY SUCH LAWS OR FOR THE ASSESSMENT, SETTLEMENT,
15 COLLECTION OR RECOVERY OF TAXES, PENALTIES OR INTEREST DUE TO
16 THE COMMONWEALTH UNDER ANY SUCH LAWS.

17 SECTION 2919-A. SUSPENSION OF INCONSISTENT ACTS.--ALL ACTS
18 OR PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF THIS
19 ARTICLE ARE SUSPENDED TO THE EXTENT NECESSARY TO CARRY OUT THE
20 PROVISIONS OF THIS ARTICLE.]

21 SECTION 11. THE ACT IS AMENDED BY ADDING ARTICLES TO READ:

22 ARTICLE XXIX-D

23 (RESERVED)

24 ARTICLE XXIX-E

25 REDUCTION OF TAX CREDITS

26 SECTION 2901-E. APPLICABILITY.

27 THIS ARTICLE SHALL APPLY TO TAX CREDITS AWARDED IN FISCAL
28 YEARS 2009-2010 AND 2010-2011.

29 SECTION 2902-E. REDUCTION.

30 (A) ARTICLE XVII-D.--FOR THE TAX CREDIT ESTABLISHED UNDER

1 ARTICLE XVII-D, THE AMOUNT AVAILABLE TO BE AWARDED PURSUANT TO
2 SECTION 1707-D(A) SHALL BE REDUCED FROM \$75,000,000 PER FISCAL
3 YEAR TO \$42,000,000 IN FISCAL YEAR 2009-2010 AND TO \$60,000,000
4 IN FISCAL YEAR 2010-2011.

5 (B) ARTICLE XVII-F.--FOR THE TAX CREDIT ESTABLISHED UNDER
6 ARTICLE XVII-F, THE AMOUNT AVAILABLE TO BE AWARDED PURSUANT TO
7 SECTION 1706-F(A) SHALL BE REDUCED FROM \$75,000,000 PER FISCAL
8 YEAR TO \$60,000,000 IN FISCAL YEAR 2009-2010 AND TO \$50,000,000
9 IN FISCAL YEAR 2010-2011. THE AMOUNT AVAILABLE TO BE AWARDED
10 UNDER SECTION 1706-F(A) (1) AND (2) SHALL BE AS FOLLOWS:

11 (1) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
12 APPROVED SHALL NOT EXCEED \$53,600,000 IN FISCAL YEAR
13 2009-2010. NO LESS THAN \$37,967,000 OF THE TOTAL AGGREGATE
14 AMOUNT SHALL BE USED TO PROVIDE TAX CREDITS FROM
15 CONTRIBUTIONS FROM BUSINESS FIRMS TO SCHOLARSHIP
16 ORGANIZATIONS. NO LESS THAN \$15,633,000 OF THE TOTAL
17 AGGREGATE AMOUNT SHALL BE USED TO PROVIDE TAX CREDITS FOR
18 CONTRIBUTIONS FROM BUSINESS FIRMS TO EDUCATIONAL IMPROVEMENT
19 ORGANIZATIONS.

20 (2) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
21 APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO PRE-
22 KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED \$
23 6,400,000 IN FISCAL YEAR 2009-2010.

24 (3) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
25 APPROVED SHALL NOT EXCEED \$44,670,000 IN FISCAL YEAR
26 2010-2011. NO LESS THAN \$33,502,000 OF THE TOTAL AGGREGATE
27 AMOUNT SHALL BE USED TO PROVIDE TAX CREDITS FOR CONTRIBUTIONS
28 FROM BUSINESS FIRMS TO SCHOLARSHIP ORGANIZATIONS. NO LESS
29 THAN \$11,168,000 OF THE TOTAL AGGREGATE AMOUNT SHALL BE USED
30 TO PROVIDE TAX CREDITS FOR CONTRIBUTIONS FROM BUSINESS FIRMS

1 TO EDUCATIONAL IMPROVEMENT ORGANIZATIONS.

2 (4) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
3 APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO PRE-
4 KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED \$5,330,000
5 IN FISCAL YEAR 2010-2011.

6 NOTWITHSTANDING SECTION 1704-F(C), IN FISCAL YEAR 2009-2010, IF
7 VALID APPLICATIONS FOR TAX CREDITS RECEIVED BY THE DEPARTMENT OF
8 COMMUNITY AND ECONOMIC DEVELOPMENT BEFORE OCTOBER 1, 2009,
9 EXCEED THE LIMITATION UNDER THIS SECTION, TAX CREDITS SHALL BE
10 MADE AVAILABLE ON A PRO-RATA BASIS TO ALL VALID APPLICATIONS
11 RECEIVED BEFORE OCTOBER 1, 2009.

12 (C) ARTICLE XVII-B.--FOR THE TAX CREDIT ESTABLISHED UNDER
13 ARTICLE XVII-B, THE AMOUNTS AVAILABLE TO BE AWARDED PURSUANT TO
14 SECTION 1709-B(A) SHALL BE EQUAL TO 50% OF THE MAXIMUM AMOUNTS
15 OTHERWISE AVAILABLE FOR AWARD IN FISCAL YEAR 2009-2010 AND 45%
16 OF THE MAXIMUM AMOUNTS OTHERWISE AVAILABLE FOR AWARD IN FISCAL
17 YEAR 2010-2011.

18 (D) CERTAIN OTHER CREDITS.--FOR THE TAX CREDITS ESTABLISHED
19 UNDER SECTION 206(B) AND ARTICLES XVII-A, XVII-E, XVIII-B AND
20 XIX-A AND UNDER CHAPTER 5 SUBCHAPTER B AND CHAPTER 9 OF THE ACT
21 OF DECEMBER 1, 2004 (P.L.1750, NO.226), KNOWN AS THE FIRST CLASS
22 CITIES ECONOMIC DEVELOPMENT DISTRICT ACT, THE AMOUNTS AVAILABLE
23 FOR AWARD TO EACH ELIGIBLE TAXPAYER SHALL BE DETERMINED SUCH
24 THAT THE TOTAL AMOUNT AVAILABLE FOR AWARD SHALL BE 50% OF THE
25 AMOUNTS OTHERWISE AVAILABLE FOR AWARD IN TOTAL PURSUANT TO THE
26 APPLICABLE SECTIONS OR ARTICLES IN FISCAL YEAR 2009-2010 AND 45%
27 OF THE AMOUNTS OTHERWISE AVAILABLE FOR AWARD IN TOTAL PURSUANT
28 TO ALL APPLICABLE SECTIONS OR ARTICLES IN FISCAL YEAR 2010-2011.

29 (E) HIATUS.--NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
30 TAXPAYER IS NOT ENTITLED TO A TAX CREDIT UNDER CH. 7 OF THE ACT

1 OF JULY 9, 2008 (1ST SP.SESS., P.L.1873, NO.1), KNOWN AS THE
2 ALTERNATIVE ENERGY INVESTMENT ACT.

3 ARTICLE XXIX-F

4 TAX AMNESTY PROGRAM FOR

5 FISCAL YEAR 2009-2010

6 SECTION 2901-F. DEFINITIONS.

7 THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS
8 ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS
9 SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT
10 MEANING:

11 "AMNESTY PERIOD." THE PERIOD FROM APRIL 26, 2010, THROUGH
12 JUNE 18, 2010, INCLUSIVE. THE ESTIMATES UNDER SECTION 2910-F(A)
13 SHALL BE COMPLETED 30 DAYS PRIOR TO APRIL 26, 2010.

14 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

15 "ELIGIBLE TAX." ANY TAX ADMINISTERED BY THE DEPARTMENT OF
16 REVENUE DELINQUENT AS OF JUNE 30, 2009. THE TERM INCLUDES ANY
17 INTEREST OR PENALTY ON AN ELIGIBLE TAX. FOR AN UNKNOWN
18 LIABILITY, THE TERM SHALL ONLY INCLUDE TAXES DUE WITHIN FIVE
19 YEARS PRIOR TO JUNE 30, 2009. FOR PURPOSES OF TAXES COLLECTED
20 UNDER THE INTERNATIONAL FUEL TAX AGREEMENT, THE TERM SHALL APPLY
21 ONLY TO TAXES, INTEREST AND PENALTIES OWED TO THE COMMONWEALTH,
22 NOT TO OTHER STATES OR CANADIAN PROVINCES.

23 "PROGRAM." THE TAX AMNESTY PROGRAM ESTABLISHED UNDER SECTION
24 2902-F AS PROVIDED FOR IN THIS ARTICLE.

25 "TAXPAYER." ANY PERSON, ASSOCIATION, FIDUCIARY, PARTNERSHIP,
26 CORPORATION OR OTHER ENTITY REQUIRED TO PAY OR COLLECT ANY OF
27 THE ELIGIBLE TAXES. THE TERM SHALL NOT INCLUDE A TAXPAYER WHO,
28 PRIOR TO THE AMNESTY PERIOD, HAS RECEIVED NOTICE THAT THE
29 TAXPAYER IS THE SUBJECT OF A CRIMINAL INVESTIGATION FOR AN
30 ALLEGED VIOLATION OF ANY LAW IMPOSING AN ELIGIBLE TAX OR WHO,

1 PRIOR TO THE AMNESTY PERIOD, HAS BEEN NAMED AS A DEFENDANT IN A
2 CRIMINAL COMPLAINT ALLEGING A VIOLATION OF ANY LAW IMPOSING AN
3 ELIGIBLE TAX OR IS A DEFENDANT IN A PENDING CRIMINAL ACTION FOR
4 AN ALLEGED VIOLATION OF ANY LAW IMPOSING AN ELIGIBLE TAX.

5 "UNKNOWN LIABILITY." A LIABILITY FOR AN ELIGIBLE TAX FOR
6 WHICH EITHER:

7 (1) NO RETURN OR REPORT HAS BEEN FILED, NO PAYMENT HAS
8 BEEN MADE AND THE TAXPAYER HAS NOT BEEN CONTACTED BY THE
9 DEPARTMENT CONCERNING THE UNFILED RETURNS OR REPORTS OR
10 UNPAID TAX; OR

11 (2) A RETURN OR REPORT HAS BEEN FILED, THE TAX WAS
12 UNDERREPORTED AND THE TAXPAYER HAS NOT BEEN CONTACTED BY THE
13 DEPARTMENT CONCERNING THE UNDERREPORTED TAX.

14 SECTION 2902-F. ESTABLISHMENT OF PROGRAM.

15 (A) PROGRAM ESTABLISHED.--THERE IS ESTABLISHED A TAX AMNESTY
16 PROGRAM WHICH SHALL BE ADMINISTERED BY THE DEPARTMENT.

17 (B) APPLICABILITY.--THE PROGRAM SHALL APPLY TO A TAXPAYER
18 WHO IS DELINQUENT ON PAYMENT OF A LIABILITY FOR AN ELIGIBLE TAX
19 AS OF JUNE 30, 2009, INCLUDING A LIABILITY FOR RETURNS NOT
20 FILED, LIABILITIES ACCORDING TO RECORDS OF THE DEPARTMENT AS OF
21 JUNE 30, 2009, LIABILITIES NOT REPORTED, UNDERREPORTED OR NOT
22 ESTABLISHED, BUT DELINQUENT AS OF JUNE 30, 2009.

23 (C) FUTURE AMNESTY PROGRAM PARTICIPATION.--A TAXPAYER WHO
24 PARTICIPATES IN THE PROGRAM SHALL NOT BE ELIGIBLE TO PARTICIPATE
25 IN A FUTURE TAX AMNESTY PROGRAM.

26 (D) DEFERRED PAYMENT PLAN AGREEMENT.--EXISTING DEFERRED
27 PAYMENT PLAN AGREEMENTS BETWEEN A TAXPAYER AND THE DEPARTMENT
28 WHERE THE AGREEMENT APPLIES TO A TAX LIABILITY FOR WHICH AMNESTY
29 IS SOUGHT BY THE TAXPAYER FOR AMOUNTS REMAINING ON THE TAX
30 LIABILITY, THE TAXPAYER, AS A CONDITION OF RECEIVING AMNESTY,

1 SHALL PAY THE LIABILITY, NOTWITHSTANDING TERMS OF THE AGREEMENT
2 TO THE CONTRARY, IN FULL DURING THE AMNESTY PERIOD.

3 SECTION 2903-F. REQUIRED PAYMENT.

4 (A) TAXPAYER REQUIREMENTS.--SUBJECT TO SECTION 2904-F, ALL
5 TAXPAYERS WHO PARTICIPATE IN THE PROGRAM SHALL COMPLY WITH ALL
6 OF THE FOLLOWING:

7 (1) DURING THE AMNESTY PERIOD, FILE A TAX AMNESTY RETURN
8 IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE
9 DEPARTMENT SHALL REQUIRE. A TAX AMNESTY RETURN SHALL BE
10 CONSIDERED TO BE TIMELY FILED IF IT IS POSTMARKED DURING THE
11 AMNESTY PERIOD OR TIMELY ELECTRONICALLY OR OTHERWISE FILED.

12 (2) DURING THE AMNESTY PERIOD, MAKE PAYMENT OF ALL TAXES
13 AND ONE-HALF OF THE INTEREST DUE TO THE COMMONWEALTH IN
14 ACCORDANCE WITH THE TAX AMNESTY RETURN THAT IS FILED. THE
15 TAXPAYER SHALL NOT BE REQUIRED TO PAY ANY PENALTY APPLICABLE
16 TO AN ELIGIBLE TAX.

17 (3) FILE COMPLETE TAX RETURNS FOR ALL REQUIRED YEARS FOR
18 WHICH THE TAXPAYER PREVIOUSLY HAS NOT FILED A TAX RETURN AND
19 FILE COMPLETE AMENDED RETURNS FOR ALL REQUIRED YEARS FOR
20 WHICH THE TAXPAYER UNDERREPORTED ELIGIBLE TAX LIABILITY.

21 (B) PROHIBITIONS.--

22 (1) THE DEPARTMENT SHALL NOT COLLECT THE PENALTIES OR
23 INTEREST WAIVED UNDER SUBSECTION (A) (2). EXCEPT AS OTHERWISE
24 PROVIDED IN THIS ARTICLE, THE DEPARTMENT SHALL NOT PURSUE ANY
25 ADMINISTRATIVE OR JUDICIAL PROCEEDING AGAINST A TAXPAYER WITH
26 RESPECT TO ANY ELIGIBLE TAX THAT IS DISCLOSED ON A TAX
27 AMNESTY RETURN.

28 (2) A TAXPAYER WITH UNKNOWN LIABILITIES REPORTED AND
29 PAID UNDER THIS PROGRAM AND WHO COMPLIES WITH ALL OTHER
30 REQUIREMENTS OF THIS ARTICLE SHALL NOT BE LIABLE FOR ANY

1 TAXES OF THE SAME TYPE DUE PRIOR TO JULY 1, 2004. A TAXPAYER
2 SHALL NOT BE OWED A REFUND UNDER THIS ARTICLE.

3 (C) FINANCIAL HARDSHIP.--A TAXPAYER OTHERWISE ELIGIBLE FOR
4 AMNESTY WHO CERTIFIES ON AN AMNESTY RETURN THAT MAKING PAYMENT
5 OF THE FULL AMOUNT OF THE LIABILITY FOR WHICH AMNESTY IS SOUGHT
6 AT THE TIME SUCH RETURN IS MADE WOULD CREATE A SEVERE FINANCIAL
7 HARDSHIP FOR SUCH TAXPAYER, SHALL RETAIN ELIGIBILITY FOR AMNESTY
8 IF:

9 (1) FIFTY PERCENT OR MORE OF THE AMOUNT DUE AS COMPUTED
10 IS PAID WITH THE AMNESTY RETURN OR WITHIN THE AMNESTY PERIOD.

11 (2) THE BALANCE DUE, INCLUDING INTEREST UNDER SUBSECTION
12 (A) (2), IS PAID, IN NO MORE THAN TWO INSTALLMENTS ON OR
13 BEFORE THE END OF THE AMNESTY PERIOD.

14 SECTION 2904-F. AMNESTY CONTINGENT ON CONTINUED COMPLIANCE.

15 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
16 DEPARTMENT MAY ASSESS AND COLLECT FROM A TAXPAYER ALL PENALTIES
17 AND INTEREST WAIVED THROUGH THE TAX AMNESTY PROGRAM ESTABLISHED
18 IN THIS ARTICLE IF, WITHIN TWO YEARS AFTER THE END OF THE
19 PROGRAM, EITHER OF THE FOLLOWING OCCURS:

20 (1) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE
21 BECOMES DELINQUENT FOR THREE CONSECUTIVE PERIODS IN PAYMENT
22 OF TAXES DUE OR FILING OF RETURNS REQUIRED ON A SEMIMONTHLY,
23 MONTHLY, QUARTERLY OR OTHER BASIS AND THE TAXPAYER HAS NOT
24 CONTESTED THE TAX LIABILITY THROUGH A TIMELY VALID
25 ADMINISTRATIVE OR JUDICIAL APPEAL; OR

26 (2) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE
27 BECOMES DELINQUENT AND IS EIGHT OR MORE MONTHS LATE IN
28 PAYMENT OF TAXES DUE OR FILING OF RETURNS ON AN ANNUAL BASIS
29 AND THE TAXPAYER HAS NOT CONTESTED THE LIABILITY THROUGH A
30 TIMELY VALID ADMINISTRATIVE OR JUDICIAL APPEAL.

1 SECTION 2905-F. LIMITATION OF DEFICIENCY ASSESSMENT.

2 IF, SUBSEQUENT TO THE AMNESTY PERIOD, THE DEPARTMENT ISSUES A
3 DEFICIENCY ASSESSMENT WITH RESPECT TO A TAX AMNESTY RETURN, THE
4 DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE PENALTIES AND TO
5 PURSUE A CRIMINAL ACTION ONLY WITH RESPECT TO THE DIFFERENCE
6 BETWEEN THE AMOUNT SHOWN ON THAT TAX AMNESTY RETURN AND THE
7 CURRENT AMOUNT OF TAX.

8 SECTION 2906-F. OVERPAYMENT OF TAX.

9 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE OR ANY
10 OTHER ACT, IF AN OVERPAYMENT OF ELIGIBLE TAX IS REFUNDED OR
11 CREDITED WITHIN 180 DAYS AFTER THE TAX AMNESTY RETURN IS FILED
12 OR THE ELIGIBLE TAX IS PAID, WHICHEVER IS LATER, NO INTEREST
13 SHALL BE ALLOWED ON THE OVERPAYMENT.

14 SECTION 2907-F. PREVIOUSLY PAID INTEREST AND PENALTIES.

15 NO REFUND OR CREDIT SHALL BE ALLOWED FOR ANY INTEREST OR
16 PENALTY ON ELIGIBLE TAXES PAID TO THE DEPARTMENT PRIOR TO THE
17 AMNESTY PERIOD.

18 SECTION 2908-F. PROCEEDINGS RELATING TO TAX AMNESTY RETURN

19 BARRED.

20 PARTICIPATION IN THE PROGRAM IS CONDITIONED UPON THE
21 TAXPAYER'S AGREEMENT THAT THE RIGHT TO PROTEST OR PURSUE AN
22 ADMINISTRATIVE OR JUDICIAL PROCEEDING WITH REGARD TO TAX AMNESTY
23 RETURNS FILED UNDER THE PROGRAM OR TO CLAIM ANY REFUND OF MONEY
24 PAID UNDER THE PROGRAM IS BARRED.

25 SECTION 2909-F. UNDISCLOSED LIABILITIES.

26 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE
27 DEPARTMENT FROM INSTITUTING CIVIL OR CRIMINAL PROCEEDINGS
28 AGAINST ANY TAXPAYER WITH RESPECT TO ANY AMOUNT OF TAX THAT IS
29 NOT DISCLOSED ON THE TAX AMNESTY RETURN OR ANY AMOUNT DISCLOSED
30 ON THE AMNESTY RETURN THAT IS NOT PAID.

1 SECTION 2910-F. DUTIES OF DEPARTMENT.

2 (A) GUIDELINES.--THE DEPARTMENT SHALL DEVELOP GUIDELINES TO
3 IMPLEMENT THE PROVISIONS OF THIS ARTICLE. THE GUIDELINES MUST BE
4 PUBLISHED IN THE PENNSYLVANIA BULLETIN WITHIN 60 DAYS OF THE
5 EFFECTIVE DATE OF THIS ARTICLE AND SHALL CONTAIN, BUT NOT BE
6 LIMITED TO, THE FOLLOWING INFORMATION:

7 (1) AN EXPLANATION OF THE PROGRAM AND THE REQUIREMENTS
8 FOR ELIGIBILITY FOR THE PROGRAM.

9 (2) THE DATES DURING WHICH A TAX AMNESTY RETURN MAY BE
10 FILED.

11 (3) A SPECIMEN COPY OF THE TAX AMNESTY RETURN.

12 (4) THE AMNESTY REVENUE ESTIMATES REQUIRED UNDER SECTION
13 2912-F(B).

14 (B) PUBLICITY.--THE DEPARTMENT SHALL PUBLICIZE THE PROGRAM
15 TO MAXIMIZE PUBLIC AWARENESS OF AND PARTICIPATION IN THE
16 PROGRAM. THE DEPARTMENT SHALL COORDINATE TO THE HIGHEST DEGREE
17 POSSIBLE ITS PUBLICITY EFFORTS AND OTHER ACTIONS TAKEN TO
18 IMPLEMENT THIS ARTICLE.

19 (C) REPORTS.--THE DEPARTMENT SHALL ISSUE REPORTS TO THE
20 GENERAL ASSEMBLY DETAILING PROGRAM IMPLEMENTATION. THE REPORTS
21 SHALL CONTAIN THE FOLLOWING INFORMATION:

22 (1) WITHIN 30 DAYS AFTER THE END OF THE AMNESTY PERIOD:

23 (I) A DETAILED BREAKDOWN OF THE DEPARTMENT'S
24 ADMINISTRATIVE COSTS IN IMPLEMENTING THE PROGRAM.

25 (II) THE TOTAL DOLLAR AMOUNT OF REVENUE COLLECTED BY
26 THE PROGRAM.

27 (2) WITHIN 180 DAYS AFTER THE END OF THE AMNESTY PERIOD:

28 (I) THE NUMBER OF TAX AMNESTY RETURNS FILED AND A
29 BREAKDOWN OF THE NUMBER AND DOLLAR AMOUNT OF REVENUE
30 RAISED FOR EACH TAX BY CALENDAR YEAR DURING WHICH THE TAX

1 PERIOD ENDED. IN ADDITION, THE GROSS REVENUES SHALL BE
2 BROKEN DOWN IN THE FOLLOWING CATEGORIES:

3 (A) AMOUNTS REPRESENTED BY ASSESSMENTS

4 RECEIVABLE ESTABLISHED BY THE DEPARTMENT ON OR BEFORE
5 THE FIRST DAY OF THE AMNESTY PERIOD.

6 (B) ALL OTHER AMOUNTS.

7 (II) THE TOTAL DOLLAR AMOUNT OF PENALTIES AND
8 INTEREST WAIVED UNDER THE PROGRAM.

9 (III) THE DEMOGRAPHIC CHARACTERISTICS OF TAX AMNESTY
10 PARTICIPANTS, INCLUDING NORTH AMERICAN INDUSTRY
11 CLASSIFICATION SYSTEM CODES OF PARTICIPANTS, TYPE OF
12 TAXPAYER, CONSISTING OF INDIVIDUAL, PARTNERSHIP,
13 CORPORATION OR OTHER ENTITY, SIZE OF TAX LIABILITY AND
14 GEOGRAPHICAL LOCATION.

15 (D) NOTIFICATION.--THE DEPARTMENT SHALL NOTIFY IN WRITING
16 ALL KNOWN TAX DELINQUENTS AT THE TAXPAYERS' LAST KNOWN ADDRESS
17 OF THE EXISTENCE OF THE TAX AMNESTY PROGRAM. THE SOLE PURPOSE OF
18 THE LETTER SENT BY THE DEPARTMENT TO TAXPAYERS MUST BE
19 NOTIFICATION OF THE PROGRAM.

20 SECTION 2911-F. METHOD OF PAYMENT.

21 ALL TAX PAYMENTS UNDER THE PROGRAM SHALL BE MADE BY CERTIFIED
22 CHECK, MONEY ORDER, ELECTRONIC TRANSFER, CREDIT CARD, CASH OR
23 ITS EQUIVALENT.

24 SECTION 2912-F. USE OF REVENUE.

25 (A) RESTRICTED REVENUE ACCOUNT.--EXCEPT AS SET FORTH IN
26 SUBSECTION (C), ALL REVENUE GENERATED BY THIS ARTICLE SHALL BE
27 DEPOSITED INTO A RESTRICTED REVENUE ACCOUNT IN THE GENERAL FUND.
28 REVENUE FROM THE RESTRICTED REVENUE ACCOUNT SHALL BE DISTRIBUTED
29 AS FOLLOWS:

30 (1) ALL MONEY FROM GENERAL FUND SOURCES SHALL BE

1 DEPOSITED IN THE GENERAL FUND NO LATER THAN JUNE 30, 2010,
2 LESS REPAYMENT OF ANY COSTS FOR ADMINISTRATION OF THE PROGRAM
3 TO THE DEPARTMENT.

4 (2) ALL REVENUE FROM MOTOR LICENSE FUND SOURCES SHALL BE
5 DEPOSITED IN THE MOTOR LICENSE FUND NO LATER THAN JUNE 30,
6 2010.

7 (3) ALL REVENUE FROM LIQUID FUELS TAX FUND SOURCES SHALL
8 BE DEPOSITED IN THE LIQUID FUELS TAX FUND NO LATER THAN JUNE
9 30, 2010.

10 (B) REVENUE ESTIMATES.--

11 (1) THE DEPARTMENT SHALL SUBMIT, FOR PUBLICATION IN THE
12 PENNSYLVANIA BULLETIN, A SEPARATE AMNESTY REVENUE ESTIMATE
13 FOR REVENUE GENERATED BY THIS ARTICLE FROM THE FOLLOWING
14 SOURCES:

15 (I) THE GENERAL FUND;

16 (II) THE MOTOR LICENSE FUND;

17 (III) THE LIQUID FUELS TAX FUND; AND

18 (IV) THE METHODOLOGY USED TO DEVELOP THE ESTIMATE.

19 (2) ALL AMNESTY REVENUE ESTIMATES SHALL BE SUBMITTED FOR
20 PUBLICATION PURSUANT TO SECTION 2910-F(A) (4).

21 (C) BUDGET STABILIZATION RESERVE FUND.--REVENUE GENERATED BY
22 THIS ARTICLE IN EXCESS OF 125% OF THE AMNESTY REVENUE ESTIMATES
23 UNDER SUBSECTION (B) (1) (I) AND THE COST OF ADMINISTRATION OF
24 THIS ARTICLE SHALL BE DEPOSITED INTO THE BUDGET STABILIZATION
25 RESERVE FUND.

26 SECTION 2913-F. ADDITIONAL PENALTY.

27 (A) PENALTY.--SUBJECT TO THE LIMITATIONS PROVIDED UNDER
28 SUBSECTION (B), A PENALTY OF 5% OF THE UNPAID TAX LIABILITY AND
29 PENALTIES AND INTEREST SHALL BE LEVIED AGAINST A TAXPAYER
30 SUBJECT TO AN ELIGIBLE TAX IF THE TAXPAYER HAD FAILED TO REMIT

1 AN ELIGIBLE TAX DUE OR HAD AN UNREPORTED OR UNDERREPORTED
2 LIABILITY FOR AN ELIGIBLE TAX ON OR AFTER THE FIRST DAY
3 FOLLOWING THE END OF THE AMNESTY PERIOD.

4 (B) NONAPPLICABILITY.--THE PENALTY PROVIDED IN THIS SECTION
5 SHALL NOT APPLY TO A TAXPAYER WHO:

6 (1) HAS PAID THE LIABILITY IN FULL OR ENTERED INTO A
7 DULY APPROVED AND EXECUTED DEFERRED PAYMENT PLAN ON OR BEFORE
8 THE LAST DAY OF THE AMNESTY PERIOD; OR

9 (2) HAS FILED A TIMELY AND VALID ADMINISTRATIVE OR
10 JUDICIAL APPEAL CONTESTING THE LIABILITY ON OR BEFORE THE
11 LAST DAY OF THE AMNESTY PERIOD.

12 (C) PENALTY IN ADDITION.--THE PENALTY PROVIDED BY THIS
13 SECTION SHALL BE IN ADDITION TO ALL OTHER PENALTIES PROVIDED BY
14 LAW.

15 SECTION 2914-F. CONSTRUCTION.

16 EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE, THIS ARTICLE
17 SHALL NOT:

18 (1) BE CONSTRUED TO RELIEVE ANY PERSON, CORPORATION OR
19 OTHER ENTITY FROM THE FILING OF RETURNS OR FROM ANY TAXES,
20 PENALTIES OR INTEREST IMPOSED BY THE PROVISIONS OF ANY LAWS;

21 (2) AFFECT OR TERMINATE ANY PETITIONS, INVESTIGATIONS,
22 PROSECUTIONS, LEGAL OR OTHERWISE, OR OTHER PROCEEDINGS
23 PENDING UNDER THE PROVISIONS OF ANY SUCH LAWS; OR

24 (3) PREVENT THE COMMENCEMENT OR FURTHER PROSECUTION OF
25 ANY PROCEEDINGS BY THE PROPER AUTHORITIES OF THE COMMONWEALTH
26 FOR VIOLATION OF ANY SUCH LAWS OR FOR THE ASSESSMENT,
27 SETTLEMENT, COLLECTION OR RECOVERY OF TAXES, PENALTIES OR
28 INTEREST DUE TO THE COMMONWEALTH UNDER ANY SUCH LAWS.

29 SECTION 2915-F. SUSPENSION OF INCONSISTENT ACTS.

30 ALL ACTS OR PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF

1 THIS ARTICLE ARE SUSPENDED TO THE EXTENT NECESSARY TO CARRY OUT
2 THE PROVISIONS OF THIS ARTICLE.

3 SECTION 11.1. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

4 SECTION 3003.20. PENALTIES FOR CERTAIN CORPORATE OFFICERS.--

5 IF AN OFFICER OF A CORPORATION OR ASSOCIATION INTENTIONALLY

6 FAILS TO MAKE REPORTS TO THE AUDITOR GENERAL OR TO THE

7 DEPARTMENT OF REVENUE, OR SUCCESSIVELY TO THE AUDITOR GENERAL

8 AND TO THE DEPARTMENT, AS REQUIRED BY LAW, FOR ANY TWO

9 SUCCESSIVE TAX YEARS, THE OFFICER COMMITS A MISDEMEANOR AND

10 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS

11 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) NOR MORE THAN

12 FIVE THOUSAND DOLLARS (\$5,000). THIS FINE SHALL BE IN ADDITION

13 TO ANY FINE OR PRISON SENTENCE UNDER SECTION 1704 OF THE ACT OF

14 APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE."

15 SECTION 3003.21. FURTHER EXAMINATION OF BOOKS AND RECORDS.--

16 (A) THE DEPARTMENT OF REVENUE OR ANY OF ITS AUTHORIZED AGENTS

17 IS AUTHORIZED TO EXAMINE THE BOOKS, PAPERS AND RECORDS OF ANY

18 TAXPAYER OR OTHER PERSONS IN ORDER TO VERIFY THE ACCURACY AND

19 COMPLETENESS OF A RETURN OR REPORT OR, IF NO RETURN OR REPORT IS

20 MADE, TO ASCERTAIN AND ASSESS ANY TAX OR OTHER LIABILITY OWED

21 THE COMMONWEALTH.

22 (B) THE DEPARTMENT MAY DETERMINE, BY DESK, FIELD OR OTHER

23 AUDIT, THE AMOUNT OF TAX OR OTHER LIABILITY REQUIRED TO BE PAID

24 TO THE COMMONWEALTH. THE DEPARTMENT MAY DETERMINE THE LIABILITY

25 BASED UPON THE FACTS CONTAINED IN THE RETURN OR REPORT BEING

26 AUDITED OR UPON OTHER INFORMATION IN THE DEPARTMENT'S

27 POSSESSION. THE DEPARTMENT MAY DETERMINE THE LIABILITY BASED

28 UPON A REASONABLE STATISTICAL SAMPLE OR TEST AUDIT PERFORMED IN

29 ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT IF THE

30 INDIVIDUAL BEING AUDITED DOES NOT HAVE COMPLETE RECORDS OF

1 TRANSACTIONS OR IF THE REVIEW OF EACH TRANSACTION OR INVOICE
2 WOULD PLACE AN UNDUE BURDEN ON THE DEPARTMENT TO CONDUCT AN
3 AUDIT IN A TIMELY AND EFFICIENT MANNER.

4 (C) THE TAXPAYER MAY CHALLENGE THE ACCURACY OF A STATISTICAL
5 SAMPLE OR TEST AUDIT BY PROVIDING CLEAR AND CONVINCING EVIDENCE
6 THAT THE METHOD USED FOR THE STATISTICAL SAMPLE OR TEST AUDIT IS
7 ERRONEOUS, LACKS A RATIONAL BASIS OR PRODUCES A DIFFERENT RESULT
8 WHEN THE COMPLETE RECORDS ARE CONSIDERED.

9 SECTION 12. REPEALS ARE AS FOLLOWS:

10 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
11 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF
12 ARTICLE XVII-F OF THE ACT.

13 (2) ARTICLE XX-B OF THE ACT OF MARCH 10, 1949 (P.L.30,
14 NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS REPEALED.

15 SECTION 13. THE ADDITION OF ARTICLE XVII-F OF THE ACT IS A
16 CONTINUATION OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN
17 AS THE PUBLIC SCHOOL CODE OF 1949. EXCEPT AS OTHERWISE PROVIDED
18 IN ARTICLE XVII-F OF THE ACT, ALL ACTIVITIES INITIATED UNDER
19 ARTICLE XX-B OF THE PUBLIC SCHOOL CODE OF 1949 SHALL CONTINUE
20 AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE COMPLETED UNDER
21 ARTICLE XVII-F OF THE ACT. ORDERS, REGULATIONS, RULES AND
22 DECISIONS WHICH WERE MADE UNDER ARTICLE XX-B OF THE PUBLIC
23 SCHOOL CODE OF 1949 AND WHICH ARE IN EFFECT ON THE EFFECTIVE
24 DATE OF SECTION 12(2) OF THIS ACT SHALL REMAIN IN FULL FORCE AND
25 EFFECT UNTIL REVOKED, VACATED OR MODIFIED UNDER ARTICLE XVII-F
26 OF THE ACT.

27 SECTION 13.1. THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
28 THE INCLUSION OF "LITTLE CIGARS" IN ARTICLE XII OF THE ACT IS
29 NOT INTENDED TO AFFECT THE MASTER SETTLEMENT AGREEMENT AND
30 RELATED DOCUMENTS ENTERED INTO NOVEMBER 23, 1998, BY THE

1 COMMONWEALTH AND LEADING UNITED STATES TOBACCO PRODUCT
2 MANUFACTURERS APPROVED BY THE COURT OF COMMON PLEAS,
3 PHILADELPHIA COUNTY, JANUARY 13, 1999.

4 SECTION 14. THIS ACT SHALL APPLY AS FOLLOWS:

5 (1) THE AMENDMENT OF SECTION 319 OF THE ACT SHALL APPLY
6 TO TAX RETURNS DUE AFTER MAY 31, 2010.

7 (2) THE AMENDMENT OF THE DEFINITION OF "CAPITAL STOCK
8 VALUE" IN SECTION 601 OF THE ACT SHALL APPLY TO TAXABLE YEARS
9 BEGINNING AFTER DECEMBER 31, 2009.

10 (3) FOR PURPOSES OF DETERMINING THE AMOUNT OF ANY
11 UNDERPAYMENT UNDER SECTION 3003.3(D) OF THE ACT, THE
12 AMENDMENT OF SECTION 602(H) OF THE ACT SHALL NOT BE TAKEN
13 INTO ACCOUNT FOR ANY PAYMENT OF ESTIMATED CAPITAL STOCK OR
14 FRANCHISE TAX DUE PRIOR TO JANUARY 1, 2010.

15 (4) THE ADDITION OF SECTION 1101(B.1) OF THE ACT SHALL
16 APPLY TO CALENDAR YEARS BEGINNING AFTER DECEMBER 31, 2008,
17 AND TO GROSS RECEIPTS RECEIVED AFTER SEPTEMBER 30, 2009.

18 SECTION 15. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

19 (1) THE AMENDMENT OR ADDITION OF SECTION 1101(B.1), (C),
20 (C.1), (E) AND (J) OF THE ACT SHALL TAKE EFFECT OCTOBER 1,
21 2009.

22 (2) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT NOVEMBER
23 1, 2009:

24 (I) THE AMENDMENT OF SECTION 1201 OF THE ACT.

25 (II) THE AMENDMENT OF SECTION 1206 OF THE ACT.

26 (III) THE AMENDMENT OF SECTION 1206.1 OF THE ACT.

27 (IV) THE AMENDMENT OF SECTION 1216 OF THE ACT.

28 (V) THE AMENDMENT OF SECTION 1272 OF THE ACT.

29 (VI) THE AMENDMENT OF SECTION 1273 OF THE ACT.

30 (VII) THE AMENDMENT OF SECTION 1278 OF THE ACT.

1 (3) THE ADDITION OF SECTIONS 1210(B) AND 1216.1 OF THE
2 ACT SHALL TAKE EFFECT IN 90 DAYS.

3 (4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
4 IMMEDIATELY.