

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1330 Session of  
2011

INTRODUCED BY QUIGLEY, CLYMER, GABLER, COX, ADOLPH, AUMENT, BAKER, BARRAR, BEAR, BENNINGHOFF, BLOOM, BOYD, B. BOYLE, BRADFORD, BRENNAN, CALTAGIRONE, CAUSER, CHRISTIANA, CONKLIN, D. COSTA, P. COSTA, CREIGHTON, CUTLER, DAY, DELOZIER, DeLUCA, DENLINGER, DePASQUALE, DiGIROLAMO, ELLIS, J. EVANS, EVERETT, FARRY, FLECK, GEIST, GERGELY, GIBBONS, GILLEN, GINGRICH, GODSHALL, GRELL, GROVE, HACKETT, HARKINS, HARPER, HARRIS, HEFFLEY, HENNESSEY, HESS, HORNAMAN, HUTCHINSON, KAUFFMAN, M. K. KELLER, W. KELLER, KILLION, KNOWLES, KORTZ, KOTIK, KRIEGER, KULA, MAJOR, MALONEY, MANN, MARSICO, McGEEHAN, METCALFE, METZGAR, MICCARELLI, MICOZZIE, MILLARD, MILLER, MILNE, MOUL, MURPHY, MURT, MUSTIO, MYERS, M. O'BRIEN, O'NEILL, PAYTON, PEIFER, PETRI, PYLE, QUINN, RAPP, READSHAW, REED, REESE, REICHLEY, ROAE, ROCK, SABATINA, SANTONI, SAYLOR, SCAVELLO, SCHRODER, SHAPIRO, SONNEY, STEPHENS, STERN, STEVENSON, TALLMAN, TAYLOR, TOEPEL, TURZAI, VEREB, VULAKOVICH, WATERS, LAWRENCE, WAGNER, HICKERNELL, EVANKOVICH, SACCONI, EMRICK, BARBIN, BURNS, TOOHIL AND M. SMITH,  
APRIL 11, 2011

SENATOR PICCOLA, EDUCATION, IN SENATE, AS AMENDED, JUNE 26, 2012

## AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An  
2 act relating to the public school system, including certain  
3 provisions applicable as well to private and parochial  
4 schools; amending, revising, consolidating and changing the  
5 laws relating thereto," providing for educational improvement  
6 tax credit; and repealing provisions of the Tax Reform Code  
7 of 1971 relating to educational improvement tax credit.

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

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

1 article to read:

2 ARTICLE XXV-B

3 EDUCATIONAL IMPROVEMENT TAX CREDIT

4 Section 2501-B. Definitions.

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

8 "Business firm." An entity authorized to do business in this  
9 Commonwealth and subject to taxes imposed under ARTICLE XVI OF ←  
10 THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE  
11 INSURANCE COMPANY LAW OF 1921, OR Article III, IV, VI, VII,  
12 VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known  
13 as the Tax Reform Code of 1971. The term includes a pass-through  
14 entity.

15 "Contribution." A donation of cash, personal property or  
16 services, the value of which is the net cost of the donation to  
17 the donor or the pro rata hourly wage, including benefits, of  
18 the individual performing the services.

19 "Department." The Department of Community and Economic  
20 Development of the Commonwealth.

21 "Educational improvement organization." A nonprofit entity  
22 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 receipts as  
27 grants to a public school, a chartered school as defined in  
28 section 1376.1 or a private school approved under section  
29 1376 for innovative educational programs.

30 For purposes of this definition, a nonprofit entity

1 "contributes" its annual cash receipts when it expends or  
2 otherwise irrevocably encumbers those funds for expenditure  
3 during the then current fiscal year of the nonprofit entity or  
4 during the next succeeding fiscal year of the nonprofit entity.  
5 A "nonprofit entity" includes a school district foundation,  
6 public school foundation, charter school foundation or cyber  
7 charter school foundation.

8 "Eligible prekindergarten student." A student, including an  
9 eligible student with a disability, who is enrolled in a  
10 prekindergarten 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 prekindergarten  
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 a disability).

24 (2) Needs special education and related services.

25 (3) Is enrolled in a prekindergarten 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, other unemancipated minor children who are related by  
2 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) Subject to paragraph (2), the amount of:

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



member of a household.

~~(ii)~~ (I) After June 30, 2011, through June 30, 2012- ←  
2013, \$12,000 for each eligible student, eligible ←  
prekindergarten student and dependent member of a  
household.

~~(iii)~~ (II) After June 30, 2012 2013, through June ←  
30, 2013 2014, \$15,000 for each eligible student, ←  
eligible prekindergarten student and dependent member of  
a household.

(2) Beginning July 1, 2013 2014, 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 a public school, chartered school as defined in  
section 1376.1(a) or private school approved in accordance with  
section 1376, or provides prekindergarten programs to public  
school students, students of a chartered school as defined in  
section 1376.1(a) or students of a private school approved in  
accordance with section 1376.

"Maximum annual household income."

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

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

~~(ii) (I) After June 30, 2011, through June 30, 2012~~ ←

~~2013, not more than \$60,000.~~ ←

~~(iii) (II) After June 30, 2012 2013, not more than~~ ←

~~\$75,000.~~

(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:

<u>Support Level</u>	<u>Support Level Factor</u>
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<u>1</u>	<u>1.50</u>
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<u>2</u>	<u>2.993</u>
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(3) Beginning July 1, 2013 2014, the Department of Community and Economic Development shall annually adjust the income amounts under paragraphs (1) and (2) 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. ←

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

1 301(n.1) of the Tax Reform Code of 1971.

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

6 (1) a minimum of two hours of instructional and  
7 developmental activities per day at least 60 days per school  
8 year; or

9 (2) a minimum of two hours of instructional and  
10 developmental activities per day at least 20 days over the  
11 summer recess.

12 "Prekindergarten scholarship organization." A nonprofit  
13 entity that:

14 (1) ~~Either is~~ IS exempt from Federal taxation under ←  
15 section 501(c)(3) of the Internal Revenue Code of 1986  
16 (Public Law 99-514, 26 U.S.C. § 1 et seq.) or is operated as  
17 a separate segregated fund by a scholarship organization that  
18 has been qualified under section 2502-B.

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

25 "Prekindergarten scholarship program." A program to provide  
26 tuition to eligible prekindergarten students to attend a  
27 prekindergarten program operated by or in conjunction with a  
28 school located in this Commonwealth and that includes an  
29 application and review process for the purpose of making awards  
30 to eligible prekindergarten students and awards scholarships to

1 eligible prekindergarten students without limiting availability  
2 to only students of one school OR ONE BUILDING WITHIN A PUBLIC ←  
3 SCHOOL DISTRICT OR NONPUBLIC SCHOOL ENTITY.

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

10 "Scholarship." An award under a scholarship program TO PAY ←  
11 TUITION AND SCHOOL-RELATED FEES TO ATTEND A SCHOOL.

12 "Scholarship organization." A nonprofit entity that:

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

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

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

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



1 DISTRICT OR NONPUBLIC SCHOOL ENTITY.

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

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

13 "SCHOOL-RELATED FEES." FEES CHARGED BY A SCHOOL TO ALL  
14 STUDENTS FOR BOOKS, INSTRUCTIONAL MATERIALS, TECHNOLOGY  
15 EQUIPMENT AND SERVICES, UNIFORMS AND ACTIVITIES.



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

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

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

25 (3) is a school for the blind or deaf receiving  
26 Commonwealth appropriations; or

27 (4) is operated by or under the authority of a bona fide  
28 religious institution or by the Commonwealth or any political  
29 subdivision thereof.

30 "Support level." The level of support needed by an eligible

1 student with a disability, as stated in the following matrix:

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

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

6 "Tax credit." The educational improvement tax credit  
7 established under this article.

8 Section 2502-B. Qualification and application.

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

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

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

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

1           (ii) The total and average amounts of scholarships  
2 awarded during the immediately preceding school year to  
3 eligible prekindergarten students.

4           (iii) The number of scholarships awarded during the  
5 immediately preceding school year to eligible students in  
6 grades kindergarten through eight.

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

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

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

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

24          (VIII) THE TOTAL NUMBER OF SCHOLARSHIP APPLICATIONS ←  
25 PROCESSED AND THE AMOUNTS OF ANY APPLICATION FEES  
26 CHARGED, EITHER PER SCHOLARSHIP APPLICATION OR IN THE  
27 AGGREGATE THROUGH A THIRD-PARTY PROCESSOR.

28          (IX) THE ORGANIZATION'S FEDERAL FORM 990 OR OTHER  
29 FEDERAL FORM INDICATING THE TAX STATUS OF THE  
30 ORGANIZATION FOR FEDERAL TAX PURPOSES, IF ANY, AND A COPY

1 OF A COMPILATION, REVIEW OR AUDIT OF THE SCHOLARSHIP  
2 ORGANIZATION'S FINANCIAL STATEMENTS CONDUCTED BY A  
3 CERTIFIED PUBLIC ACCOUNTING FIRM.

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

11 (3) The department may not require any other information  
12 to be provided by scholarship organizations or  
13 prekindergarten scholarship organizations, except as  
14 expressly authorized in this article.

15 (d) Educational improvement organization.--

16 (1) An application submitted by an educational  
17 improvement organization must describe its proposed  
18 innovative educational program or programs in a form  
19 prescribed by the department. In prescribing the form, the  
20 department shall consult with the Department of Education as  
21 necessary. The department shall review and approve or  
22 disapprove the application. In order to be eligible to  
23 participate in the program established under this article, an  
24 educational improvement organization must agree to annually  
25 report the following information to the department by  
26 September 1 of each year:

27 (i) The name of the innovative educational program  
28 or programs and the total amount of the grant or grants  
29 made to those programs during the immediately preceding  
30 school year.

1           (ii) A description of how each grant was utilized  
2 during the immediately preceding school year and a  
3 description of any demonstrated or expected innovative  
4 educational improvements.

5           (iii) The names of the public schools and school  
6 districts where innovative educational programs that  
7 received grants during the immediately preceding school  
8 year were implemented.

9           (iv) Where the educational improvement organization  
10 collects information on a county-by-county basis, the  
11 total number and the total dollar amount of grants made  
12 during the immediately preceding school year for programs  
13 at public schools in each county in which the educational  
14 improvement organization made grants.

15           (V) THE EDUCATIONAL IMPROVEMENT ORGANIZATION'S ←  
16 FEDERAL FORM 990 OR OTHER FEDERAL FORM INDICATING THE TAX  
17 STATUS OF THE EDUCATIONAL IMPROVEMENT ORGANIZATION FOR  
18 FEDERAL TAX PURPOSES, IF ANY, AND A COPY OF A  
19 COMPILATION, REVIEW OF AUDIT OF THE EDUCATIONAL  
20 IMPROVEMENT ORGANIZATION'S FINANCIAL STATEMENTS CONDUCTED  
21 BY A CERTIFIED PUBLIC ACCOUNTING FIRM.

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

28           (3) The department may not require any other information  
29 to be provided by educational improvement organizations,  
30 except as expressly authorized in this article.

1 (e) Notification.--The department shall notify the  
2 scholarship organization, prekindergarten scholarship  
3 organization or educational improvement organization that the  
4 organization meets the requirements of this article for that  
5 fiscal year no later than 60 days after the organization has  
6 submitted the information required under this section.

7 (f) Publication.--The department shall annually publish a  
8 list of each scholarship organization, prekindergarten  
9 scholarship organization or educational improvement organization  
10 qualified under this section in the Pennsylvania Bulletin. The  
11 list shall also be posted and updated as necessary on the  
12 publicly accessible Internet website of the department.

13 Section 2503-B. Application.

14 (a) Scholarship organization or prekindergarten scholarship  
15 organization.--A business firm shall apply to the department for  
16 a tax credit. A business firm shall receive a tax credit if the  
17 scholarship organization or prekindergarten scholarship  
18 organization that receives the contribution appears on the list  
19 established under section 2502-B(f).

20 (b) Educational improvement organization.--A business firm  
21 must apply to the department for a tax credit. A business firm  
22 shall receive a tax credit if the department has approved the  
23 program provided by the educational improvement organization  
24 that receives the contribution.

25 (c) Availability of tax credits.--Tax credits shall be made  
26 available by the department on a first-come-first-served basis  
27 within the limitations established under section 2505-B(a).

28 (d) Contributions.--A contribution by a business firm to a  
29 scholarship organization, prekindergarten scholarship  
30 organization or educational improvement organization shall be

1 made no later than 60 days following the approval of an  
2 application under subsection (a) or (b).

3 Section 2504-B. Tax credit.

4 (a) Scholarship or educational improvement organizations.--

5 In accordance with section 2505-B(a), the Department of Revenue  
6 shall grant a tax credit against any tax due under ARTICLE XVI ←  
7 OF THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE  
8 INSURANCE COMPANY LAW OF 1921, OR Article III, IV, VI, VII,  
9 VIII, IX or XV of the act of March 4, 1971 (P.L.6, No.2), known  
10 as the Tax Reform Code of 1971, to a business firm providing  
11 proof of a contribution to a scholarship organization or  
12 educational improvement organization in the taxable year in  
13 which the contribution is made which shall not exceed 75% of the  
14 total amount contributed during the taxable year by the business  
15 firm. For the fiscal year ~~2011-2012~~ 2012-2013, the tax credit ←  
16 shall not exceed \$400,000 annually per business firm for  
17 contributions made to scholarship organizations and educational  
18 improvement organizations. For the fiscal year ~~2012-2013-~~ ←  
19 2013-2014 AND EACH FISCAL YEAR THEREAFTER, the tax credit shall ←  
20 not exceed \$750,000 annually per business firm for contributions  
21 made to scholarship organizations or educational improvement  
22 organizations.

23 (b) Additional amount.--The Department of Revenue shall  
24 grant a tax credit of up to 90% of the total amount contributed  
25 during the taxable year if the business firm provides a written  
26 commitment to provide the scholarship organization or  
27 educational improvement organization with the same amount of  
28 contribution for two consecutive tax years. The business firm  
29 must provide the written commitment under this subsection to the  
30 department at the time of application.

1 (c) Prekindergarten scholarship organizations.--In  
2 accordance with section 2505-B(a), the Department of Revenue  
3 shall grant a tax credit against any tax due under ARTICLE XVI ←  
4 OF THE INSURANCE COMPANY LAW OF 1921 OR Article III, IV, VI,  
5 VII, VIII, IX or XV of the Tax Reform Code of 1971 to a business  
6 firm providing proof of a contribution to a prekindergarten  
7 scholarship organization in the taxable year in which the  
8 contribution is made which shall be equal to 100% of the first  
9 \$10,000 contributed during the taxable year by the business  
10 firm, and which shall not exceed 90% of the remaining amount  
11 contributed during the taxable year by the business firm. For ←  
12 the fiscal year 2011-2012, the THE tax credit shall not exceed ←  
13 \$200,000 annually per business firm for contributions made to  
14 prekindergarten scholarship organizations. For the fiscal year ←  
15 2012-2013, the tax credit shall not exceed \$250,000 annually per  
16 business firm for contributions made to prekindergarten  
17 scholarship organizations.

18 (d) Combination of tax credits.--A business firm may receive  
19 tax credits from the Department of Revenue in any tax year for  
20 any combination of contributions under subsection (a), (b) or  
21 (c). In no case may a business firm receive tax credits in any  
22 tax year in excess of \$750,000 \$400,000 for contributions under ←  
23 subsections (a) and (b) MADE DURING FISCAL YEAR 2012-2013, OR IN ←  
24 EXCESS OF \$750,000 FOR CONTRIBUTIONS UNDER SUBSECTIONS (A) AND  
25 (B) MADE DURING ANY FISCAL YEAR THEREAFTER. In no case shall a  
26 business firm receive tax credits in any tax year in excess of  
27 \$250,000 \$200,000 for contributions under subsection (c). ←

28 (e) Pass-through entity.--

29 (1) If a pass-through entity does not intend to use all  
30 approved tax credits under this section, it may elect in



1 writing to transfer all or a portion of the tax credit to  
2 shareholders, members or partners in proportion to the share  
3 of the entity's distributive income to which the shareholder,  
4 member or partner is entitled for use in the taxable year in  
5 which the contribution is made or in the taxable year  
6 immediately following the year in which the contribution is  
7 made. The election shall designate the year in which the  
8 transferred tax credits are to be used and shall be made  
9 according to procedures established by the Department of  
10 Revenue.

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

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

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

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

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

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

27 (2) The application of any business firm for tax credits  
28 available during a fiscal year as part of the second year of  
29 a two-year commitment or as a renewal of a two-year  
30 commitment that was fulfilled in the previous fiscal year may

1 be accepted no earlier than May 15 preceding the fiscal year.

2 Section 2505-B. Limitations.

3 (a) Amount.--

4 ~~(1) (i) For the fiscal year 2011-2012, the THE total~~ ←  
5 ~~aggregate amount of all tax credits approved shall not~~  
6 ~~exceed \$100,000,000. IN A FISCAL YEAR. SUCH TAX CREDITS~~ ←  
7 ~~SHALL BE USED AS FOLLOWS:~~

8 ~~(ii) Not more than \$67,000,000 of the total~~ ←  
9 (1) NO LESS THAN \$60,000,000 OF THE TOTAL aggregate ←  
10 amount of all tax credits approved shall be used to provide  
11 tax credits for contributions from business firms to  
12 scholarship organizations.

13 ~~(iii) Not more than \$25,000,000 of the total~~ ←  
14 (2) NO LESS THAN \$30,000,000 OF THE TOTAL aggregate ←  
15 amount of all tax credits approved shall be used to provide  
16 tax credits for contributions from business firms to  
17 educational improvement organizations.

18 ~~(iv) Not more than \$8,000,000 of the total aggregate~~ ←  
19 (3) NOT MORE THAN \$10,000,000 OF THE TOTAL AGGREGATE ←  
20 amount of all tax credits approved shall be used to provide  
21 tax credits for contributions from business firms to  
22 prekindergarten scholarship organizations.

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

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

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

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

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

(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 2504-B(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 2504-B(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 prekindergarten student shall not be considered to be taxable income for the purposes of Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax

1 Reform Code of 1971.

2 Section 2506-B. Lists.

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

8 Section 2507-B. Guidelines.

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

12 Section 2. Repeals are as follows:

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

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

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

25 Section 4. This act shall take effect ~~in 60 days~~ JULY 1,  
26 2012, OR IMMEDIATELY, WHICHEVER IS LATER.

