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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1920 Session of  
2012

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INTRODUCED BY TRUITT, CREIGHTON, FARRY, GEIST, GILLEN, HEFFLEY,  
HELM, MILNE, MURT, WATSON AND YOUNGBLOOD, FEBRUARY 22, 2012

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REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 22, 2012

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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," providing for a tax credit for telecommuters.

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

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
14 the Tax Reform Code of 1971, is amended by adding an article to  
15 read:

16 ARTICLE XVIII-E

17 TELECOMMUTE PA TAX CREDIT

18 Section 1801-E. Scope of article.

19 This article relates to telecommute PA tax credits.

20 Section 1802-E. Definitions.

21 The following words and phrases when used in this article

22 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Department." The Department of Community and Economic  
3 Development of the Commonwealth.

4 "Full-time employee." An employee whose compensation is  
5 based on a work week of at least 35 hours.

6 "Pass-through entity." A partnership as defined in section  
7 301(n.o) or a Pennsylvania S corporation as defined in section  
8 301(n.1).

9 "Qualified tax liability." The liability for taxes imposed  
10 under Article III, IV or VI. The term shall include the  
11 liability for taxes imposed under Article III on an owner of a  
12 pass-through entity.

13 "Secretary." The Secretary of Community and Economic  
14 Development of the Commonwealth.

15 "Tax credit." The telecommute PA tax credit authorized under  
16 this article.

17 "Taxpayer." A person subject to tax under Article III, IV or  
18 VI. The term shall include the shareholder, owner or member of a  
19 pass-through entity which receives a telecommuting PA tax  
20 credit.

21 "Telecommuting." The practice by which an employee uses an  
22 electronic linkup with a central office to work from home.  
23 Section 1803-E. Credit for telecommuting full-time employees.

24 (a) Application.--A taxpayer that allows full-time employees  
25 to engage in the practice of telecommuting may apply for a tax  
26 credit. The application must be on a form required by the  
27 department.

28 (b) Review.--The department, in conjunction with the  
29 Department of Revenue, shall review the application and shall  
30 determine if all of the following apply:

1       (1) All of the requirements established under this  
2 article have been met.

3       (2) The applicant has filed all required State tax  
4 reports and returns for all taxable years and paid any  
5 balance of State tax due as determined by the Department of  
6 Revenue.

7       (c) Approval.--Upon satisfactory review under subsection  
8 (b), the department shall approve the application and shall  
9 award the taxpayer a tax credit for the taxable year for which  
10 the application was made in an amount calculated under  
11 subsection (d). The total amount of tax credits awarded to a  
12 taxpayer under this article may not exceed \$50,000 in each  
13 fiscal year.

14       (d) Calculation of tax credit.--The tax credit awarded to  
15 the taxpayer under subsection (c) shall be calculated as  
16 follows:

17       (1) For the first year an employee telecommutes, a  
18 taxpayer shall be eligible for a tax credit up to \$3,000. The  
19 tax credit shall be based on actual expenses incurred as  
20 evidenced by the application submitted under subsection (a)  
21 and shall be prorated based on the employee's telecommuting  
22 start date.

23       (2) For each subsequent year an employee telecommutes, a  
24 taxpayer shall be eligible for a tax credit up to \$1,500. The  
25 tax credit shall be based on actual expenses incurred as  
26 evidenced by the application submitted under subsection (a).  
27 If an employee terminates telecommuting prior to the end of  
28 the fiscal year, the tax credit shall be prorated based on  
29 the actual amount of days the employee telecommuted.

30       (e) Limitation.--Upon completing the calculation under

1 subsection (d), the department shall base the actual amount  
2 awarded to the taxpayer upon the actual time the full-time  
3 employee spends telecommuting per week, which shall be  
4 calculated by the department as follows:

5 (1) One hundred percent of the tax credit shall be  
6 awarded if the full-time employee averages four or more days  
7 per week telecommuting.

8 (2) Seventy-five percent of the tax credit shall be  
9 awarded if the full-time employee averages three days per  
10 week telecommuting.

11 (3) Fifty percent of the tax credit shall be awarded if  
12 the full-time employee averages two days per week  
13 telecommuting.

14 (4) Twenty-five percent of the tax credit shall be  
15 awarded if the full-time employee averages one day per week  
16 telecommuting.

17 (f) Notification.--The department shall notify the taxpayer  
18 of the amount of the tax credit awarded within 30 days after  
19 approval by the department.

20 Section 1804-E. Carryover, application of tax credit, carryback  
21 and refund.

22 (a) Carryover.--If the taxpayer cannot use the entire amount  
23 of the tax credit for the taxable year in which the tax credit  
24 is first approved, the excess may be carried over to succeeding  
25 taxable years and used as a credit against the qualified tax  
26 liability of the taxpayer for those taxable years. Each time  
27 that the tax credit is carried over to a succeeding taxable  
28 year, it shall be reduced by the amount that was used as a  
29 credit during the immediately preceding taxable year. The tax  
30 credit may be carried over and applied to succeeding taxable

1 years for no more than seven taxable years following the first  
2 taxable year for which the taxpayer was entitled to claim the  
3 tax credit.

4 (b) Application of tax credit.--A tax credit approved by the  
5 department for full-time employees engaged in telecommuting in a  
6 taxable year shall first be applied against the taxpayer's  
7 qualified tax liability for the current taxable year as of the  
8 date on which the tax credit was approved before the tax credit  
9 is applied against any tax liability under subsection (a).

10 (c) Carryback or refund.--A taxpayer shall not be entitled  
11 to carry back or obtain a refund of an unused tax credit.

12 Section 1805-E. Limitation on tax credits.

13 (a) Total amount.--The total amount of tax credits approved  
14 by the department in a fiscal year may not exceed \$5,000,000.

15 (b) Allocation.--Tax credits shall be allocated by the  
16 department on a first-come-first-served basis.

17 Section 1806-E. Shareholder, owner or member pass-through.

18 (a) Shareholder entitlement.--If a Pennsylvania S  
19 corporation does not have an eligible tax liability against  
20 which the tax credit may be applied, a shareholder of the  
21 Pennsylvania S corporation shall be entitled to a tax credit  
22 equal to the tax credit determined for the Pennsylvania S  
23 corporation for the taxable year multiplied by the percentage of  
24 the Pennsylvania S corporation's distributive income to which  
25 the shareholder is entitled.

26 (b) Pass-through entity entitlement.--If a pass-through  
27 entity other than a Pennsylvania S corporation does not have tax  
28 liability against which the tax credit may be applied, an owner  
29 or member of the pass-through entity shall be entitled to a tax  
30 credit equal to the tax credit determined for the pass-through

1 entity for the taxable year multiplied by the percentage of the  
2 pass-through entities' distributive income to which the owner or  
3 member is entitled.

4 (c) Additional credit.--

5 (1) Except as provided under paragraph (2), the tax  
6 credit provided under subsection (a) or (b) shall be in  
7 addition to any tax credit to which a shareholder, owner or  
8 member of a pass-through entity is otherwise entitled under  
9 this article.

10 (2) A pass-through entity and a shareholder, owner or  
11 member of a pass-through entity may not claim a tax credit  
12 under this article for the same full-time employees engaged  
13 in telecommuting.

14 Section 1807-E. Guidelines.

15 The department, in consultation with the Department of  
16 Revenue, shall establish written guidelines for the  
17 implementation and administration of this article. The  
18 guidelines shall be published on each of the department's  
19 publicly accessible Internet websites.

20 Section 2. This act shall take effect immediately.