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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 42 Session of  
2019

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INTRODUCED BY SNYDER, RYAN, JAMES, OBERLANDER, McCLINTON AND  
MATZIE, JANUARY 28, 2019

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REFERRED TO COMMITTEE ON FINANCE, JANUARY 28, 2019

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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 depressed area tax credit.

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 XIX-G

17 DEPRESSED AREA TAX CREDIT

18 Section 1901-G. Definitions.

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

22 "Business firm." A business entity authorized to do business

1 in this Commonwealth and subject to taxes imposed by Article  
2 III, IV, VI, VII, VIII, IX or XV. The term shall include a pass-  
3 through entity.

4 "Depressed area." Any area in this Commonwealth which is  
5 certified as such by the Department of Community and Economic  
6 Development and the certification is approved by the Governor.  
7 Such certification shall be made on the basis of Federal census  
8 studies and current indices of social and economic conditions.

9 "Pass-through entity." A partnership as defined in section  
10 301(n.0) or a Pennsylvania S corporation as defined in section  
11 301(n.1).

12 "Qualified tax liability." Tax liability imposed on a  
13 business firm under Article III, IV, VI, VII, VIII, IX or XV.

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

16 Section 1902-G. Tax credit.

17 (a) Contribution.--A business firm which contributes to a  
18 program engaging in the activities of providing a program for  
19 school students for an educational purpose and outside of the  
20 school setting in a depressed area shall receive a depressed  
21 area tax credit if the secretary annually approves the proposal  
22 of the business firm. The proposal shall set forth the program  
23 to be conducted, the depressed area selected, the estimated  
24 amount to be invested in the program and the plans for  
25 implementing the program.

26 (b) Limitation.--The total amount of the depressed area tax  
27 credit granted for programs approved under this article shall  
28 not exceed \$5,000,000 in any fiscal year.

29 Section 1903-G. Claiming the credit.

30 Upon being approved for a depressed area tax credit by the

1 secretary, the business firm may claim a tax credit against the  
2 qualified tax liability of the business firm.

3 Section 1904-G. Carryover, carryback and assignment of credit.

4 (a) Carryover.--If a business firm cannot use the entire  
5 amount of the depressed area tax credit for the taxable year in  
6 which the credit is first approved, then the excess may be  
7 carried over to succeeding taxable years and used as a credit  
8 against the qualified tax liability of the business firm for  
9 those taxable years. Each time the depressed area tax credit is  
10 carried over to a succeeding taxable year, it shall be reduced  
11 by the amount that was used as a credit during the immediately  
12 preceding taxable year. The depressed area tax credit may be  
13 carried over and applied to succeeding taxable years for not  
14 more than seven taxable years following the first taxable year  
15 for which the business firm was entitled to claim the credit.

16 (b) Application.--A depressed area tax credit shall first be  
17 applied against the business firm's qualified tax liability for  
18 the current taxable year as of the date on which the credit was  
19 issued before the credit can be applied against any tax  
20 liability under subsection (a).

21 (c) No carryback or refund.--A business firm may not carry  
22 back or obtain a refund of all or any portion of an unused  
23 depressed area tax credit granted to the business firm.

24 (d) Sale or assignment.--The following shall apply:

25 (1) A business firm, upon application to and approval by  
26 the Department of Community and Economic Development, may  
27 sell or assign, in whole or in part, a depressed area tax  
28 credit granted to the business firm.

29 (2) Before an application is approved, the Department of  
30 Revenue must find that the applicant has filed all required

1 State tax reports and returns for all applicable taxable  
2 years and paid any balance of State tax due as determined at  
3 settlement, assessment or determination by the Department of  
4 Revenue.

5 (e) Purchasers and assignees.--The purchaser or assignee of  
6 all or a portion of a depressed area tax credit obtained under  
7 subsection (d) shall immediately claim the credit in the taxable  
8 year in which the purchase or assignment is made. The purchaser  
9 or assignee may not carry forward, carry back or obtain a refund  
10 of or sell or assign the depressed area tax credit. The  
11 purchaser or assignee shall notify the Department of Revenue of  
12 the seller or assignor of the depressed area tax credit in  
13 compliance with procedures specified by the department.

14 Section 1905-G. Pass-through entities.

15 (a) Transfers.--If a pass-through entity has any unused  
16 depressed area tax credit, the pass-through entity may elect, in  
17 writing, according to procedures established by the Department  
18 of Revenue, to transfer all or a portion of the credit to  
19 shareholders, members or partners in proportion to the share of  
20 the entity's distributive income to which the shareholder,  
21 member or partner is entitled.

22 (b) Limitation.--A pass-through entity and a shareholder,  
23 member or partner of a pass-through entity shall not claim the  
24 depressed area tax credit under subsection (a) for the same  
25 qualified expenditures.

26 (c) Application.--A shareholder, member or partner of a  
27 pass-through entity to whom a depressed area tax credit is  
28 transferred under subsection (a) shall immediately claim the  
29 credit in the taxable year in which the transfer is made. The  
30 shareholder, member or partner may not carry forward, carry

1 back, obtain a refund of or sell or assign the credit.

2 Section 1906-G. Administration.

3 The Department of Community and Economic Development and the  
4 Department of Revenue shall jointly develop written guidelines  
5 for the implementation of the provisions of this article.

6 Section 2. This act shall take effect in 60 days.