
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2373 Session of
2014

INTRODUCED BY VEREB, CLYMER, CHRISTIANA, KILLION, BARRAR,
GINGRICH, GODSHALL, HELM, LAWRENCE, MACKENZIE, MAJOR,
MARSICO, MILLARD, SAYLOR, TOBASH AND MURT, JUNE 23, 2014

REFERRED TO COMMITTEE ON EDUCATION, JUNE 23, 2014

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," further providing for educational improvement tax
11 credit; and repealing provisions relating to educational
12 opportunity scholarship tax credit.

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

15 Section 1. Article XVII-F heading of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added
17 October 9, 2009 (P.L.451, No.48), is amended to read:

18 ARTICLE XVII-F

19 EDUCATIONAL [IMPROVEMENT TAX CREDIT]

20 TAX CREDITS

21 Section 2. Section 1701-F of the act, added October 9, 2009
22 (P.L.451, No.48), is amended to read:

1 Section 1701-F. Scope of article.

2 This article establishes the educational improvement [tax
3 credit], scholarship and pre-kindergarten scholarship and
4 opportunity scholarship credits.

5 Section 3. The definitions of "business firm," "income
6 allowance," "maximum annual household income" and "pass-through
7 entity" in section 1702-F of the act, amended or added October
8 9, 2009 (P.L.451, No.48) and July 2, 2012 (P.L.751, No.85), are
9 amended and the section is amended by adding definitions to
10 read:

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 "Applicable taxes." A tax due under Article III, IV, VI,
16 VII, VIII, IX, XI, XI-A, XV or XX or a tax under Article XVI of
17 the act of May 17, 1921 (P.L.682, No.284), known as The
18 Insurance Company Law of 1921.

19 "Applicant." An eligible student who applies for a
20 scholarship.

21 "Assessment." The Pennsylvania System of School Assessment
22 test, the Keystone Exam, an equivalent local assessment or
23 another test established by the State Board of Education to meet
24 the requirements of section 2603-B(d)(10)(i) of the Public
25 School Code of 1949, and required under the No Child Left Behind
26 Act of 2001 (Public Law 107-110, 115 Stat. 1425) or its
27 successor statute or another test required to achieve other
28 standards established by the Department of Education for the
29 public school or school district under 22 Pa. Code § 403.3
30 (relating to single accountability system).

1 "Attendance boundary." A geographic area of residence used
2 by a school district to assign a student to a public school.

3 "Average daily membership." As defined in section 2501(3) of
4 the Public School Code of 1949.

5 "Business firm." An entity authorized to do business in this
6 Commonwealth and subject to taxes imposed under Article III, IV,
7 VI, VII, VIII, IX [or XV], XI, XI-A, XV or XX or a tax under
8 Article XVI of the act of May 17, 1921 (P.L.682, No.284), known
9 as The Insurance Company Law of 1921. The term includes a pass-
10 through entity[.] and a pass-through entity whose members are
11 composed of owners or employes of businesses which have a
12 purpose of making contributions under this article.

13 * * *

14 "Elementary school." A school which is not a secondary
15 school.

16 * * *

17 "Income allowance."

18 [(1) As follows:

19 (i) Before July 1, 2011, \$10,000 for each eligible
20 student, eligible pre-kindergarten student and dependent
21 member of the household.

22 (ii) After June 30, 2011, and through June 30, 2013,
23 \$12,000 for each eligible student, eligible pre-
24 kindergarten student and dependent member of the
25 household.

26 (iii) After June 30, 2013, and through June 30,
27 2014, \$15,000 for each eligible student, eligible pre-
28 kindergarten student and dependent member of the
29 household.

30 (2) Beginning July 1 2014, the Department of Community

1 and Economic Development shall annually adjust the income
2 allowance amounts under paragraph (1) to reflect any upward
3 changes in the Consumer Price Index for All Urban Consumers
4 for the Pennsylvania, New Jersey, Delaware and Maryland area
5 in the preceding 12 months and shall immediately submit the
6 adjusted amounts to the Legislative Reference Bureau for
7 publication as a notice in the Pennsylvania Bulletin.]

8 The base amount of \$15,000 for each eligible student,
9 eligible pre-kindergarten student and dependent member of the
10 household. Beginning July 1, 2014, an annual adjustment by the
11 department to reflect upward changes in the Consumer Price Index
12 for All Urban Consumers for the Pennsylvania, New Jersey,
13 Delaware and Maryland area since June 30, 2013, shall be added
14 to the base amount. The department shall immediately submit the
15 adjusted amounts to the Legislative Reference Bureau for
16 publication as a notice in the Pennsylvania Bulletin.

17 * * *

18 "Kindergarten." A one-year formal educational program that
19 occurs during the school year immediately prior to first grade.
20 The term includes a part-time and a full-time program.

21 "Low-achieving school." A public school that ranked in the
22 lowest 15% of the school's designation as an elementary school
23 or a secondary school based on combined mathematics and reading
24 scores from the annual assessment administered in the previous
25 school year and for which the Department of Education has posted
26 results on the Department of Education's publicly accessible
27 Internet website. The term does not include a charter school,
28 cyber charter school or area vocational-technical school.

29 "Maximum annual household [income] allowance."

30 (1) [Except as set forth in paragraph (2) and subject to

1 paragraph (3), as follows:

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

3 (ii) After June 30, 2011, and through June 30, 2013,
4 not more than \$60,000.

5 (iii) After June 30, 2013, not more than \$75,000.]

6 Subject to adjustment under paragraph (2), the sum of
7 \$75,000, plus the applicable income allowance.

8 (2) With respect to [an eligible] a student with a
9 disability, as calculated by multiplying:

10 (i) [the sum of:

11 (A)] the applicable amount under paragraph (1);

12 and

13 [(B) the applicable income allowance; by]

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

16 Support Level	Support Level Factor
17 1	1.50
18 2	2.993

19 (3) Beginning July 1, 2014, the [Department of Community
20 and Economic Development] department shall annually adjust
21 the income amounts under paragraphs (1) and (2) to reflect
22 any upward changes in the Consumer Price Index for All Urban
23 Consumers for the Pennsylvania, New Jersey, Delaware and
24 Maryland area [in the preceding 12 months] since June 30,
25 2013, and shall immediately submit the adjusted amounts to
26 the Legislative Reference Bureau for publication as a notice
27 in the Pennsylvania Bulletin.

28 "Nonpublic school." A school which is a nonprofit
29 organization and which is located in this Commonwealth. The term
30 does not include a public school.

1 "Opportunity scholarship organization." A nonprofit entity
2 which does all of the following:

3 (1) Is exempt from Federal taxation under section 501(c)
4 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
5 26 U.S.C. § 1 et seq.).

6 (2) Contributes at least 80% of the entity's annual cash
7 receipts to an opportunity scholarship program.

8 For the purposes of this definition, a nonprofit entity
9 contributes the entity's cash receipts to an opportunity
10 scholarship program when the entity expends or otherwise
11 irrevocably encumbers those funds for distribution during the
12 then current fiscal year of the nonprofit entity or during the
13 next succeeding fiscal year of the nonprofit entity.

14 "Opportunity scholarship." An award given to an applicant to
15 pay tuition and school-related fees necessary to attend a
16 participating nonpublic school or a participating public school
17 located in a school district which is not the recipient's school
18 district of residence.

19 "Opportunity scholarship program." A program to provide
20 opportunity scholarships to eligible students who reside within
21 the attendance area of a low-achieving school.

22 "Parent." An individual who:

23 (1) is a resident of this Commonwealth; and

24 (2) either:

25 (i) has legal custody or guardianship of a student;

26 or

27 (ii) keeps in the individual's home a student and
28 supports the student gratis as if the student were a
29 lineal descendant of the individual.

30 "Participating nonpublic school." A nonpublic school which

1 notifies the Department of Education under section 1711-F that
2 the school wishes to accept opportunity scholarship recipients.

3 "Participating public school." A public school in a school
4 district which notifies the Department of Education under
5 section 1711-F that the school wishes to accept opportunity
6 scholarship recipients. The term does not include a low-
7 achieving school.

8 "Pass-through entity." A partnership as defined in section
9 301(n.0), a single-member limited liability company treated as a
10 disregarded entity for Federal income tax purposes or a
11 Pennsylvania S corporation as defined in section 301(n.1). The
12 term includes a pass-through entity that owns an interest in a
13 pass-through entity.

14 * * *

15 "Public School Code of 1949." The act of March 10, 1949
16 (P.L.30, No.14), known as the Public School Code of 1949.

17 "Recipient." An applicant who receives a scholarship.

18 * * *

19 "School district of residence." The school district in which
20 the student's primary domicile is located.

21 * * *

22 "Secondary school." A school with an eleventh grade.

23 * * *

24 "Student." An individual who meets all of the following:

25 (1) Is school age.

26 (2) Is a resident of this Commonwealth.

27 (3) Attends or is about to attend a school.

28 "Student with a disability." A student who meets all of the
29 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 a disability).

5 (2) Needs special education and related services.

6 * * *

7 Section 4. Section 1703-F of the act, amended or added
8 October 9, 2009 (P.L.451, No.48) and July 2, 2012 (P.L.751,
9 No.48), is amended to read:

10 Section 1703-F. Qualification and application by organizations.

11 (a) Establishment.--In accordance with section 14 of Article
12 III of the Constitution of Pennsylvania, [an educational
13 improvement tax credit program is] the educational improvement,
14 scholarship, pre-kindergarten scholarship and opportunity tax
15 credit programs are hereby established to enhance the
16 educational opportunities available to all students in this
17 Commonwealth.

18 (b) Information.--In order to qualify under this article, an
19 educational improvement organization, a scholarship
20 organization, a pre-kindergarten scholarship organization or an
21 [educational improvement] opportunity scholarship organization
22 must submit information to the department that enables the
23 department to confirm that the organization is exempt from
24 taxation under section 501(c)(3) of the Internal Revenue Code of
25 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

26 (c) Scholarship organizations and pre-kindergarten
27 scholarship organizations.--A scholarship organization or pre-
28 kindergarten scholarship organization must certify to the
29 department that the organization is eligible to participate in
30 the applicable program established under this article and must

1 agree to annually report the following information to the
2 department by September 1 of each year:

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

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

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

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

16 (v) The number of scholarships awarded during the
17 immediately preceding school year to eligible students in
18 grades nine through 12.

19 (vi) The total and average amounts of the
20 scholarships awarded during the immediately preceding
21 school year to eligible students in grades nine through
22 12.

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

1 (viii) The total number of scholarship applications
2 processed and the amounts of any application fees
3 charged, either per scholarship application or in the
4 aggregate through a third-party processor.

5 (ix) The organization's Federal Form 990 or other
6 Federal form indicating the tax status of the
7 organization for Federal tax purposes, if any, and a copy
8 of a compilation, review or audit of the organization's
9 financial statements conducted by a certified public
10 accounting firm.

11 (2) The information required under paragraph (1) shall
12 be submitted on a form provided by the department. No later
13 than May 1 of each year, the department shall annually
14 distribute such sample forms, together with the forms on
15 which the reports are required to be made, to each listed
16 scholarship organization and pre-kindergarten scholarship
17 organization.

18 (3) The department may not require any other information
19 to be provided by scholarship organizations or pre-
20 kindergarten scholarship organizations, except as expressly
21 authorized in this article.

22 (d) Educational improvement organization.--

23 (1) An application submitted by an educational
24 improvement organization must describe its proposed
25 innovative educational program or programs in a form
26 prescribed by the department. The department shall consult
27 with the Department of Education as necessary. The department
28 shall review and approve or disapprove the application. In
29 order to be eligible to participate in the program
30 established under this article, an educational improvement

1 organization must agree to annually report the following
2 information to the department by [December 1, 2005, and]
3 September 1 of each year [thereafter]:

4 (i) The name of the innovative educational program
5 or programs and the total amount of the grant or grants
6 made to those programs during the immediately preceding
7 school year.

8 (ii) A description of how each grant was utilized
9 during the immediately preceding school year and a
10 description of any demonstrated or expected innovative
11 educational improvements.

12 (iii) The names of the public schools and school
13 districts where innovative educational programs that
14 received grants during the immediately preceding school
15 year were implemented.

16 (iv) Where the educational improvement organization
17 collects information on a county-by-county basis, the
18 total number and the total amount of grants made during
19 the immediately preceding school year for programs at
20 public schools in each county in which the educational
21 improvement organization made grants.

22 (v) The organization's Federal Form 990 or other
23 Federal form indicating the tax status of the
24 organization for Federal tax purposes, if any, and a copy
25 of a compilation, review or audit of the organization's
26 financial statements conducted by a certified public
27 accounting firm.

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

1 [thereafter], the department shall annually distribute such
2 sample forms, together with the forms on which the reports
3 are required to be made, to each listed educational
4 improvement organization.

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

8 (d.1) Opportunity scholarship organizations.--

9 (1) An opportunity scholarship organization must enhance
10 the educational opportunities available to students in this
11 Commonwealth by providing opportunity scholarships to
12 eligible students who reside within the attendance boundary
13 of low-achieving schools to attend a school which is not a
14 low-achieving school and which is not a public school within
15 the school district of residence. By February 15 of each
16 year, an opportunity scholarship organization must certify to
17 the department that the organization is eligible to operate
18 an opportunity scholarship program.

19 (2) An opportunity scholarship organization must agree
20 to report the following information on a form provided by the
21 department by September 1:

22 (i) The total number of applications for opportunity
23 scholarships received during the immediately preceding
24 school year from eligible students in grades kindergarten
25 through eight.

26 (ii) The number of opportunity scholarships awarded
27 during the immediately preceding school year to eligible
28 students in grades kindergarten through eight.

29 (iii) The total and average amounts of the
30 opportunity scholarships awarded during the immediately

1 preceding school year to eligible students in grades
2 kindergarten through eight.

3 (iv) The total number of applications for
4 scholarships received during the immediately preceding
5 school year from eligible students in grades nine through
6 12.

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

10 (vi) The total and average amounts of the
11 opportunity scholarships awarded during the immediately
12 preceding school year to eligible students in grades nine
13 through 12.

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

21 (viii) The number of opportunity scholarships
22 awarded during the immediately preceding school year to
23 applicants with a household income that does not exceed
24 185% of the Federal poverty level.

25 (ix) The total and average amounts of opportunity
26 scholarships awarded during the immediately preceding
27 school year to applicants with a household income that
28 does not exceed 185% of the Federal poverty level.

29 (x) The number of opportunity scholarships awarded
30 during the immediately preceding school year to

1 applicants with a household income that does not exceed
2 185% of the Federal poverty level and who reside within a
3 first class school district.

4 (xi) The total and average amounts of opportunity
5 scholarships awarded during the immediately preceding
6 school year to applicants with a household income that
7 does not exceed 185% of the Federal poverty level and who
8 reside within a first class school district.

9 (xii) The number of opportunity scholarships awarded
10 during the immediately preceding school year to
11 applicants with a household income that does not exceed
12 185% of the Federal poverty level and who reside within a
13 school district with an average daily membership greater
14 than 7,500 and that receives an advance of the district's
15 basic education subsidy.

16 (xiii) The total and average amounts of opportunity
17 scholarships awarded during the immediately preceding
18 school year to applicants with a household income that
19 does not exceed 185% of the Federal poverty level and who
20 reside within a school district with an average daily
21 membership greater than 7,500 and that receives an
22 advance of the district's basic education subsidy.

23 (xiv) The number of opportunity scholarships awarded
24 during the immediately preceding school year to
25 applicants with a household income that does not exceed
26 185% of the Federal poverty level and who reside within a
27 school district that receives an advance of the
28 district's basic education subsidy and is either:

29 (A) Subject to a declaration of financial
30 distress under section 691 of the Public School Code

1 of 1949.

2 (B) Engaged in litigation against the
3 Commonwealth in which the school district seeks
4 financial assistance from the Commonwealth to allow
5 the school district to continue to operate.

6 (xv) The total and average amounts of opportunity
7 scholarships awarded during the immediately preceding
8 school year to applicants with a household income that
9 does not exceed 185% of the Federal poverty level and who
10 reside within a school district that receives an advance
11 of the district's basic education subsidy and is either:

12 (A) Subject to a declaration of financial
13 distress under section 691 of the Public School Code
14 of 1949.

15 (B) Is engaged in litigation against the
16 Commonwealth in which the school district seeks
17 financial assistance from the Commonwealth to allow
18 the school district to continue to operate.

19 (xvi) The total number of opportunity scholarship
20 applications processed and the amounts of application
21 fees charged either per opportunity scholarship
22 application or in the aggregate through a third-party
23 processor.

24 (xvii) The opportunity scholarship organization's
25 Federal Form 990 or other Federal form indicating the tax
26 status of the opportunity scholarship organization for
27 Federal tax purposes, if any, and a copy of a
28 compilation, review or audit of the opportunity
29 scholarship organization's financial statements conducted
30 by a certified public accounting firm.

1 (3) No later than May 1, the department shall annually
2 distribute such sample forms, together with the forms on
3 which the reports are required to be made, to each listed
4 scholarship organization.

5 (4) The department may not require other information to
6 be provided by opportunity scholarship organizations, except
7 as expressly authorized in this article.

8 (e) Notification.--The department shall notify the
9 scholarship organization, pre-kindergarten scholarship
10 organization [or], educational improvement organization or
11 opportunity scholarship organization that the organization meets
12 the requirements of and is qualified under this article for that
13 fiscal year no later than 60 days after the organization has
14 submitted the information required under this section.

15 (f) Publication.--The department shall annually publish a
16 list of each scholarship organization, pre-kindergarten
17 scholarship organization [or], educational improvement
18 organization and opportunity scholarship organization qualified
19 under this section in the Pennsylvania Bulletin. The list shall
20 also be posted and updated as necessary on the publicly
21 accessible Internet website of the department.

22 Section 5. Section 1704-F of the act, added December 9, 2009
23 (P.L.451, No.48), is amended to read:

24 Section 1704-F. Application by business firms.

25 (a) Scholarship organization [or], pre-kindergarten
26 scholarship organization or opportunity scholarship
27 organization.--A business firm shall apply to the department for
28 a tax credit for contributions to a scholarship organization,
29 pre-kindergarten scholarship organization or opportunity
30 scholarship organization under section 1705-F. A business firm

1 shall receive a tax credit under this article if the scholarship
2 organization [or], pre-kindergarten scholarship organization or
3 opportunity scholarship organization that receives the
4 contribution appears on the list established under section 1703-
5 F(f), subject to the limitations in sections 1705-F and 1706-F.

6 (b) Educational improvement organization.--A business firm
7 must apply to the department for a credit for a contribution to
8 an educational improvement organization under section 1705-F. A
9 business firm shall receive a tax credit under this article if
10 the department has approved the program provided by the
11 educational improvement organization that receives the
12 contribution, subject to the limitations in sections 1705-F and
13 1706-F.

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, opportunity scholarship organization or
21 educational improvement organization shall be made no later than
22 60 days following the approval of an application under
23 subsection (a) or (b).

24 (e) Alternative tax credit.--The department shall advise a
25 business firm at the time of application that the firm may elect
26 on the same application form for a particular credit to apply in
27 the alternative for a tax credit for one or more other
28 contributions authorized under this section. The department
29 shall promptly consider the alternative application for a credit
30 under this section for a business firm that does not receive the

1 preferred choice for a tax credit.

2 Section 4. Sections 1705-F and 1706-F of the act, amended
3 July 2, 2012 (P.L.751, No.85), are amended to read:

4 Section 1705-F. Tax [credit] credits.

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

6 In accordance with section [1706-F(a)] 1706-F, the Department of
7 Revenue shall grant a tax credit against any [tax due under
8 Article III, IV, VI, VII, VIII, IX or XV or under Article XVI of
9 the act of May 17, 1921 (P.L.682, No.284), known as The
10 Insurance Company Law of 1921,] of the applicable taxes to a
11 business firm providing proof of a contribution to a scholarship
12 organization or educational improvement organization in the
13 taxable year in which the contribution is made [which]. The
14 credit shall not exceed 75% of the total amount contributed
15 during the taxable year by the business firm. For fiscal year
16 [2012-2013, the tax credit shall not exceed \$400,000 annually
17 per business firm for contributions made to scholarship
18 organizations or educational improvement organizations. For
19 fiscal year 2013-2014] 2014-2015, and each fiscal year
20 thereafter, the tax credit shall not exceed \$750,000 annually
21 per business firm for contributions made to scholarship
22 organizations or educational improvement organizations[.] except
23 as provided under subsection (i).

24 (a.1) Opportunity scholarship organizations.--In accordance
25 with section 1706-F, the Department of Revenue shall grant a tax
26 credit against any of the applicable taxes to a business firm
27 providing proof of a contribution to an opportunity scholarship
28 organization in the taxable year in which the contribution is
29 made in accordance with the following:

30 (1) The credit shall not exceed 75% of the total amount

1 contributed during the taxable year by the business firm.

2 (2) For fiscal year 2014-2015, and each fiscal year
3 thereafter, the tax credit shall not exceed \$750,000 annually
4 per business firm for contributions made to opportunity
5 scholarship organizations, except as provided in subsection
6 (i).

7 (b) Additional amount.--[The] In accordance with section
8 1706-F, the Department of Revenue shall grant a tax credit of up
9 to 90% of the total amount contributed during the taxable year
10 if the business firm provides a written commitment to provide
11 the scholarship organization [or], educational improvement
12 organization or opportunity scholarship with the same amount of
13 contribution for two consecutive tax years. The business firm
14 must provide the written commitment under this subsection to the
15 department at the time of application.

16 (c) Pre-kindergarten scholarship organizations.--In
17 accordance with section [1706-F(a)] 1706-F, the Department of
18 Revenue shall grant a tax credit against any [tax due under
19 Article III, IV, VI, VII, VIII, IX or XV or under Article XVI of
20 The Insurance Company Law of 1921] applicable tax to a business
21 firm providing proof of a contribution to a pre-kindergarten
22 scholarship organization in the taxable year in which the
23 contribution is made [which]. The credit shall be equal to 100%
24 of the first \$10,000 contributed during the taxable year by the
25 business firm[,] and [which] shall not exceed 90% of the
26 remaining amount contributed during the taxable year by the
27 business firm. Such credit shall not exceed \$200,000 annually
28 per business firm for contributions made to pre-kindergarten
29 scholarship [organizations] organization, except as provided in
30 subsection (i).

1 (d) Combination of tax credits.--[A] In accordance with
2 section 1706-F, a business firm may receive tax credits from the
3 Department of Revenue in any tax year for any combination of
4 contributions under [subsection (a) or (b) or (c)] subsection
5 (a), (a.1), (b) or (c). [In] Except as provided in subsection
6 (i), in no case may a business firm receive tax credits in any
7 tax year in excess of the following:

8 (1) [\$400,000 for] \$750,000 for combined contributions
9 [under subsections (a) and (b) made during fiscal year 2012-
10 2013 or in excess of] to scholarship and educational
11 improvement organizations under subsections (a) and (b).

12 (2) \$750,000 for contributions [under subsections (a)
13 and (b) made after fiscal year 2012-2013. In no case shall a
14 business firm receive tax credits in any tax year in excess
15 of] to opportunity scholarship organizations under
16 subsections (a.1) and (b).

17 (3) \$200,000 for contributions [under subsection (c)] to
18 pre-kindergarten scholarship organizations under subsection
19 (d).

20 (e) Pass-through entity.--

21 (1) If a pass-through entity does not intend to use all
22 approved tax credits under this section, it may elect in
23 writing to [transfer] distribute for no consideration all or
24 a portion of the credit to shareholders, members or partners
25 in proportion to the [share of the entity's distributive
26 income to which] percentage interest of the shareholder,
27 member or partner [is entitled for use] in distributions from
28 the pass-through entity, which credits may be used by the
29 shareholders, members or partners in the taxable year in
30 which the contribution is made or in the taxable year

1 immediately following the year in which the contribution is
2 made. The election shall designate the year in which the
3 [transferred] distributed credits are to be used and shall be
4 made according to procedures established by the Department of
5 Revenue. A pass-through entity that received a distribution
6 from a pass-through entity under this paragraph may make a
7 distribution under this paragraph.

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

11 (3) The shareholder, member or partner may not carry
12 forward, carry back, obtain a refund of or sell or assign the
13 credit.

14 (4) An individual shareholder, partner or member may
15 apply a credit distributed under this section to income
16 taxable under Article III to the shareholder, partner or
17 member, to the spouse of the shareholder, partner or member
18 or to both, if both the shareholder, partner or member and
19 the spouse report income on a joint personal income tax
20 return.

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

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

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

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

1 commitment which was fulfilled in the previous fiscal year
2 may be accepted no earlier than May 15 preceding the fiscal
3 year.

4 (h) Waiting list.--The department shall maintain a waiting
5 list consisting of each business firm which chooses to be on the
6 list and whose application has not been approved because all
7 available credits have been awarded. A business firm that was
8 not accepted due to a lack of available credits shall be
9 notified of and offered a spot on the waiting list. When credits
10 become available, the department shall award the credits, in
11 order of placement, to the business firms on the waiting list.

12 (i) Temporary increase in maximum credits available.--

13 (1) If all tax credits authorized under this article for
14 contributions to a category of scholarship, opportunity
15 scholarship or pre-kindergarten scholarship organizations
16 under section 1704-F have not been awarded as of November 1
17 of a fiscal year of the Commonwealth, then for applications
18 accepted by the department from November 1 through December
19 31 of such fiscal year, the limitations set forth in
20 subsections (a), (a.1), (c) and (d) relating to the maximum
21 amount of tax credits a business firm can receive during a
22 year for contributions to the categories of organizations
23 shall not apply. Under this paragraph, the department may
24 accept applications under section 1704-F from November 1
25 through December 31 as follows:

26 (i) A business firm, including a business firm that
27 already applied for the maximum tax credits available
28 pursuant to subsections (a) and (d), may apply for tax
29 credits under section 1704-F(a) for contributions to
30 scholarship organizations, up to the total amount of tax

1 credits remaining available for contributions to such
2 organizations for the fiscal year as set forth in section
3 1706-F(a)(1).

4 (ii) A business firm, including a business firm that
5 already applied for the maximum tax credits available
6 pursuant to subsections (a.1) and (d), may apply for tax
7 credits under section 1704-F(b) for contributions to
8 opportunity scholarship organizations, up to the total
9 amount of tax credits remaining available for
10 contributions to the organizations for the fiscal year as
11 set forth in section 1706-F(a)(3).

12 (iii) A business firm, including a business firm
13 that already applied for the maximum tax credits
14 available pursuant to subsections (c) and (d), may apply
15 for tax credits under section 1704-F(d) for contributions
16 to pre-kindergarten scholarship organizations, up to the
17 total amount of tax credits remaining available for
18 contributions to such organizations for the fiscal year
19 as set forth in section 1706-F(a)(2).

20 (2) The provisions of subsection (b) shall not apply to
21 applications for tax credits made under this subsection. Tax
22 credits awarded under this subsection shall not exceed 75% of
23 the total amount contributed during the taxable year by a
24 business firm pursuant to an application filed under this
25 subsection.

26 (3) Prior to the award of tax credits applied for under
27 this subsection, the department shall first award tax credits
28 for which applications were received during the period
29 November 1 through December 31 in accordance with subsections
30 (a), (b), (c) and (d). The tax credits shall be awarded on a

1 first-come, first-served basis as set forth in section 1704-
2 F(c).

3 (4) After the department has awarded tax credits as set
4 forth in paragraph (3), any tax credits remaining available
5 within each category of scholarship, opportunity scholarship
6 and pre-kindergarten scholarship organizations shall be
7 awarded pro rata based on the total amount of tax credits
8 within each category for which applications are received from
9 November 1 through December 31 of the fiscal year under this
10 subsection. If the total amount of tax credits applied for by
11 all business firms under this subsection does not exceed the
12 total amount of tax credits that remained available for award
13 within the category as of November 1, less those awarded as
14 set forth in subsection (i)(3), then each business firm may
15 be awarded the full amount of tax credits applied for. If the
16 total amount of tax credits applied for by all business firms
17 during this period exceeds the total amount of tax credits
18 that remained available for award within the category as of
19 November 1, less those awarded as set forth in subsection (i)
20 (3), then each business firm may be awarded an amount of tax
21 credits determined by multiplying the amount of tax credits
22 applied for by the business firm by a ratio, the numerator of
23 which is the total amount of tax credits that remained
24 available for award within the category as of November 1,
25 less those awarded as set forth in subsection (i)(3), and the
26 denominator of which is the total amount of tax credits
27 applied for by all business firms under this subsection.

28 (5) The limitations set forth in subsections (a), (a.1),
29 (c) and (d) relating to the maximum amount of tax credits a
30 business firm can receive during a year for contributions to

1 a category of scholarship, opportunity scholarship or pre-
2 kindergarten scholarship organizations shall be reinstated
3 for all applications accepted by the department on or after
4 January 1 of the fiscal year.

5 (j) Reallocation of credits.--Promptly after January 1 of a
6 fiscal year of the Commonwealth in which all tax credits
7 authorized under this article in a specific category have been
8 awarded, the department shall inform the business firms on the
9 waiting list maintained by the department which have applied for
10 a category if credits remain available under another category.
11 If an applicant elects, the department shall reallocate pro
12 tanto the remaining credits for award to the applicant for the
13 applicant's preferred credit, notwithstanding any limitations
14 contained in this article. Thereafter, the department shall
15 accept new applications for reallocation of credits remaining
16 for award for the preferred credit notwithstanding any
17 limitations contained in this article.

18 Section 1706-F. Limitations.

19 (a) Amount.--

20 (1) The total aggregate amount of all tax credits
21 approved for contributions from business firms to scholarship
22 organizations and educational improvement organizations shall
23 not exceed \$100,000,000 in a fiscal year. No less than
24 \$60,000,000 of the total aggregate amount shall be used to
25 provide tax credits for contributions from business firms to
26 scholarship organizations. No less than \$30,000,000 of the
27 total aggregate amount shall be used to provide tax credits
28 for contributions from business firms to educational
29 improvement organizations.

30 (2) The [following apply to specific fiscal years:

1 (i) For fiscal years 2004-2005, 2005-2006 and 2006-
2 2007, 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 \$5,000,000 in a fiscal year.

6 (ii) For fiscal years 2007-2008, 2008-2009, 2009-
7 2010, 2010-2011 and 2011-2012, the] total aggregate
8 amount of all tax credits approved for contributions from
9 business firms to pre-kindergarten scholarship [programs]
10 organizations shall not exceed [\$8,000,000] \$10,000,000
11 in a fiscal year.

12 [(iii) For fiscal year 2012-2013 and each fiscal
13 year thereafter, the]

14 (3) The total aggregate amount of all tax credits
15 approved for contributions from business firms to [pre-
16 kindergarten scholarship programs] opportunity scholarship
17 organizations shall not exceed [\$10,000,000] \$50,000,000 in a
18 fiscal year.

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

22 (c) Tax liability.--

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

26 (2) In the case of a credit granted to a pass-through
27 entity which elects to [transfer] distribute the credit
28 according to section 1705-F(e), a tax credit granted for any
29 one taxable year and [transferred] distributed to a
30 shareholder, member or partner may not exceed the tax

1 liability of the shareholder, member or partner.

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

7 (e) Nontaxable income.--A scholarship from any category
8 received by an eligible student or eligible pre-kindergarten
9 student shall not be considered to be taxable income for the
10 purposes of Article III.

11 (f) Financial assistance.--A scholarship from any category
12 received by an eligible student or eligible pre-kindergarten
13 student shall not constitute an appropriation or financial
14 assistance to the school attended by the recipient.

15 Section 5. Section 1707-F of the act, added October 9, 2009
16 (P.L.451, No.48), is amended to read:

17 Section 1707-F. Lists.

18 The Department of Revenue shall provide a list of all
19 scholarship organizations, pre-kindergarten scholarship
20 organizations [and], educational improvement organizations and
21 opportunity scholarship organizations receiving contributions
22 from business firms granted a tax credit under this article to
23 the General Assembly by June 30th of each year.

24 Section 6. The act is amended by adding sections to read:
25 Section 1709-F. Opportunity scholarships.

26 (a) Notice.--By February 1 of each year, the department
27 shall provide all opportunity scholarship organizations with a
28 list of the low-achieving schools located within each school
29 district.

30 (b) Award.--An opportunity scholarship organization may

1 award an opportunity scholarship to an applicant who resides
2 within the attendance boundary of a low-achieving school to
3 attend a participating public school or a participating
4 nonpublic school selected by the parent of the applicant. If an
5 applicant who received an educational opportunity scholarship
6 under this article for the prior school year resides within the
7 attendance boundary of a school that was removed from the list
8 of low-achieving schools provided by the department under
9 subsection (a), the applicant may receive an opportunity
10 scholarship. The opportunity scholarship may be for each year of
11 enrollment in a participating public school or participating
12 nonpublic school for up to the lesser of five years or until
13 completion of grade 12, provided the applicant otherwise remains
14 eligible. In awarding scholarships, an opportunity scholarship
15 organization shall give preference to any of the following:

16 (1) An applicant who received an opportunity scholarship
17 for the prior school year.

18 (2) An applicant of a household with a household income
19 that does not exceed 185% of the Federal poverty level for
20 the school year preceding the school year for which the
21 application is being made.

22 (3) An applicant of a household with a household income
23 that does not exceed 185% of the Federal poverty level for
24 the school year preceding the school year for which the
25 application is being made and who resides within any of the
26 following:

27 (i) A first class school district.

28 (ii) A school district with an average daily
29 membership greater than 7,500 and that receives an
30 advance of the district's basic education subsidy.

1 (iii) A school district that receives an advance of
2 the district's basic education subsidy and is either:

3 (A) Subject to a declaration of financial
4 distress under section 691 of the Public School Code
5 of 1949.

6 (B) Engaged in litigation against the
7 Commonwealth in which the school district seeks
8 financial assistance from the Commonwealth to allow
9 the school district to continue to operate.

10 (c) Home schooling.--A scholarship organization shall not
11 award a scholarship to an applicant for enrollment in a home
12 education program under section 1327.1 of the Public School Code
13 of 1949.

14 (d) Funding.--The aggregate amount of opportunity
15 scholarships shall not exceed the aggregate amount of
16 contributions made by business firms to the opportunity
17 scholarship organization.

18 (e) Amount.--

19 (1) The maximum amount of an opportunity scholarship
20 awarded to an applicant without a disability shall be \$8,500.

21 (2) The maximum amount of an opportunity scholarship
22 awarded to an applicant with a disability shall be \$15,000.

23 (3) In no case shall the combined amount of the
24 opportunity scholarship awarded to a recipient and any
25 additional financial assistance provided to the recipient
26 exceed the tuition rate and school-related fees for the
27 participating public school or participating nonpublic school
28 that the recipient will attend.

29 (f) Taxation.--An opportunity scholarship shall not be
30 considered taxable income for purposes of Article III or a local

1 taxing ordinance.

2 (g) Financial assistance.--An opportunity scholarship shall
3 not constitute financial assistance or an appropriation to the
4 participating public school or the participating nonpublic
5 school attended by a recipient.

6 Section 1710-F. Low-achieving schools.

7 (a) List of low-achieving schools.--By February 1 of each
8 year, the Department of Education shall publish on the
9 Department of Education's publicly accessible Internet website
10 and in the Pennsylvania Bulletin a list of the low-achieving
11 schools for the following school year.

12 (b) Notice.--By February 1 of each year, the Department of
13 Education shall notify every school district identified as
14 having at least one low-achieving school of the Department of
15 Education's designation and shall furnish the school district
16 with a list of the low-achieving schools located within the
17 school district.

18 (c) Publication.--Within 15 days of receipt of a
19 notification under subsection (b), a school district shall post
20 on the district's publicly accessible Internet website notice of
21 all of the following:

22 (1) A description of the opportunity scholarship
23 program.

24 (2) Instructions for applying for an opportunity
25 scholarship.

26 (3) A list of schools in the school district that have
27 been designated by the Department of Education as low-
28 achieving schools.

29 (4) Notice that a parent must directly contact a school
30 district of a participating public school or a participating

1 nonpublic school if the parent seeks to enroll the student in
2 the opportunity scholarship program.

3 (d) Notification to parents.--

4 (1) Within 15 days of receipt of a notification under
5 subsection (b), a school district shall notify the parents of
6 each student who is currently attending or residing within
7 the attendance boundary of a low-achieving school during the
8 school year of the school's designation.

9 (2) Upon registration of a kindergarten student, a
10 school district shall notify the parents of the kindergarten
11 student that the student will be assigned to a low-achieving
12 school during the school year of the school's designation.

13 (3) The notice shall be in a form provided by the
14 Department of Education and shall provide the following
15 information regarding the opportunity scholarship program:

16 (i) A description of the opportunity scholarship
17 program.

18 (ii) Instructions for obtaining information about
19 applying for an opportunity scholarship under the
20 program.

21 (iii) Notice of the parent's responsibilities with
22 regard to applying to a school district of a
23 participating public school or a participating nonpublic
24 school if the parent seeks to enroll the student in the
25 opportunity scholarship program.

26 (e) Average daily membership.--

27 (1) Notwithstanding any other provision of law to the
28 contrary, a recipient who was enrolled in the recipient's
29 resident school district or in a charter school, regional
30 charter school or cyber charter school when the recipient

1 first received an opportunity scholarship shall continue to
2 be counted in the average daily membership of the school
3 district for a period of one year after enrolling in a
4 participating public school or a participating nonpublic
5 school.

6 (2) During the year referenced in paragraph (1) and each
7 school year thereafter, a school district of a participating
8 public school in which the recipient is enrolled shall not
9 include the recipient in the school district's average daily
10 membership.

11 Section 1711-F. School participation in program.

12 (a) Election.--

13 (1) By February 15 of each year, a nonpublic school may
14 elect to participate in the opportunity scholarship program
15 for the following school year.

16 (2) By February 15 of each year, a school district may
17 elect to participate in the opportunity scholarship program
18 for the following school year.

19 (b) Notice.--

20 (1) A school district or nonpublic school that elects to
21 participate under subsection (a) must notify the Department
22 of Education of the district's intent to participate.

23 (2) For a school district, the notice under paragraph
24 (1) must be submitted on a form developed by the Department
25 of Education and shall specify all of the following:

26 (i) Each school within the school district which the
27 school district intends to make a participating public
28 school.

29 (ii) The amount of tuition and school-related fees
30 attributable to each available seat. The amount under

1 this subparagraph shall not exceed the amount calculated
2 under section 2561 of the Public School Code of 1949.

3 (3) For a nonpublic school, the notice under paragraph
4 (1) must be submitted on a form developed by the Department
5 of Education and shall specify the amount of tuition and
6 school-related fees attributable to an available seat.

7 (c) Tuition rates.--

8 (1) No school district of a participating public school
9 or participating nonpublic school may charge a recipient a
10 higher tuition rate or school-related fee than the
11 participating public school or participating nonpublic school
12 would have charged to a similarly situated student who is not
13 receiving an opportunity scholarship.

14 (2) Notwithstanding the provisions of section 2561 of
15 the Public School Code of 1949, a school district of a
16 participating public school may charge a recipient a tuition
17 rate that is lower than that charged to students who are not
18 recipients of opportunity scholarships.

19 (d) Participating public school criteria.--The following
20 criteria apply to a participating public school:

21 (1) Except as otherwise provided in this article, a
22 school district shall enroll students in a participating
23 public school on a lottery basis from a pool of recipients
24 who meet the application deadline set by the Department of
25 Education until the participating public school fills the
26 school's available seats. The pool may not include a
27 recipient who has done any of the following:

28 (i) Has been expelled or is in the process of being
29 expelled under section 1317.2 or 1318 of the Public
30 School Code of 1949 and applicable regulations of the

1 State Board of Education.

2 (ii) Has been recruited by the school district or
3 its representatives for athletic purposes.

4 (2) The enrollment of recipients may not place the
5 school district in violation of a valid and binding
6 desegregation order.

7 (3) Priority shall be given to:

8 (i) An existing recipient.

9 (ii) A recipient who is a sibling of a student
10 currently enrolled in the school district.

11 (e) Participating nonpublic school criteria.--The following
12 criteria apply to a participating nonpublic school:

13 (1) The participating nonpublic school may not
14 discriminate on a basis which is illegal under Federal or
15 State laws applicable to nonpublic schools.

16 (2) The participating nonpublic school shall comply with
17 section 1521 of the Public School Code of 1949.

18 (3) The participating nonpublic school or its
19 representatives may not recruit a student for athletic
20 purposes.

21 (f) Student rules, policies and procedures.--

22 (1) Prior to enrollment of a recipient, a school
23 district of a participating public school or a participating
24 nonpublic school shall inform the parent of a recipient of
25 any and all rules, policies and procedures of the
26 participating public school or participating nonpublic
27 school, including any academic policies, disciplinary rules
28 and administrative procedures of the participating public
29 school or participating nonpublic school.

30 (2) Enrollment of a recipient in a participating public

1 school or participating nonpublic school shall constitute
2 acceptance of any rules, policies and procedures of the
3 participating public school or participating nonpublic
4 school.

5 (g) Transportation.--

6 (1) Transportation of recipients shall be provided under
7 section 1361 of the Public School Code of 1949.

8 (2) Reimbursement shall be as follows:

9 (i) Transportation of a recipient attending a
10 participating public school shall be subject to
11 reimbursement under section 2541 of the Public School
12 Code of 1949.

13 (ii) Transportation of a recipient attending a
14 participating nonpublic school shall be subject to
15 reimbursement under sections 2509.3 and 2541 of the
16 Public School Code of 1949.

17 (h) Construction.--Nothing in this article shall be
18 construed to:

19 (1) Prohibit a participating nonpublic school from
20 limiting admission to a particular grade level, a single
21 gender or areas of concentration of the participating
22 nonpublic school, including mathematics, science and the
23 arts.

24 (2) Authorize the Commonwealth or any of its agencies or
25 officers or political subdivisions to impose any additional
26 requirements on a participating nonpublic school which are
27 not otherwise authorized under the laws of this Commonwealth
28 or to require a participating nonpublic school to enroll a
29 recipient if the participating nonpublic school does not
30 offer appropriate programs or is not structured or equipped

1 with the necessary facilities to meet the special needs of
2 the recipient or does not offer a particular program
3 requested.

4 Section 1712-F. Tuition grants by school districts.

5 (a) General rule.--The board of school directors of a school
6 district may use funds received from the Commonwealth for
7 educational purposes to establish a program of tuition grants to
8 provide for the education of students who reside within the
9 district and attend or will attend a public or nonpublic school
10 on a tuition-paying basis.

11 (b) Nonpublic school grant amount.--For students who attend
12 or will attend a nonpublic school, the grant amount for each
13 student shall not exceed the amount of the per pupil State
14 subsidy for basic education of the school district of residence.

15 (c) Average daily membership.--

16 (1) A student who receives a tuition grant under this
17 section shall be included in the average daily membership for
18 purposes of determining the school district of residence's
19 basic education funding.

20 (2) A student who receives a grant under this section to
21 attend a public school outside the school district awarding
22 the tuition grant shall not be included in the average daily
23 membership of the school district the student attends.

24 (d) Guidelines.--

25 (1) The board of school directors of a school district
26 shall prepare guidelines on all the following:

27 (i) Establishing an application form and approval
28 process.

29 (ii) Standards for verification as to the accuracy
30 of application information.

1 (iii) Confirmation of attendance by a student who
2 receives a tuition grant.

3 (iv) Restrictive endorsement of grant checks by
4 parents to the school chosen by the parents.

5 (v) Pro rata refunds of grants for students who
6 withdraw during the school year.

7 (vi) Repayment of refunded grants to the school
8 district.

9 (vii) Reasonable deadline dates for submission of
10 grant applications.

11 (2) The board of school directors of a school shall
12 announce the award of grants no later than August 1 of the
13 school year in which the grants will be utilized.

14 (3) Upon receipt of written confirmation of enrollment
15 from the student's school of choice, grants shall be paid to
16 the parents of a student by a check that may only be endorsed
17 to the selected school.

18 (4) In the event a student is no longer enrolled prior
19 to the completion of the school term, the school shall send
20 written notice to the school district.

21 (e) Nontaxable.--Grants awarded to students under this
22 section shall not:

23 (1) Be considered taxable income for purposes of a local
24 taxing ordinance or for purposes of Article III.

25 (2) Constitute financial assistance or appropriations to
26 the school attended by the student.

27 (f) Construction.--Nothing in this section shall be
28 construed to empower the Commonwealth or a school district or
29 any of their agencies or officers to do any of the following:

30 (1) Prescribe the course content or admissions criteria

1 for any religiously affiliated school.

2 (2) Compel any private school to accept or enroll a
3 student.

4 (3) Impose any additional requirements on any private
5 school that are not otherwise authorized.

6 (4) Require any school to accept or retain a student if
7 the school does not offer programs or is not structured or
8 equipped with the necessary facilities to meet the special
9 needs of the student or does not offer a particular program
10 requested.

11 Section 1713-F. Original jurisdiction.

12 The Pennsylvania Supreme Court shall have exclusive and
13 original jurisdiction to hear a challenge or to render a
14 declaratory judgment concerning the constitutionality of this
15 article. The Pennsylvania Supreme Court may take such action as
16 the court deems appropriate, consistent with the Pennsylvania
17 Supreme Court's retaining jurisdiction over such a matter, to
18 find facts or to expedite a final judgment in connection with a
19 challenge or request for declaratory relief.

20 Section 7. Article XVII-G.1 heading and sections 1701-G.1,
21 1702-G.1, 1703-G.1, 1704-G.1, 1705-G.1, 1706-G.1 and 1707-G.1,
22 of the act, added July 2, 2012 (P.L.751, No.85), are repealed:

23 [ARTICLE XVII-G.1

24 EDUCATIONAL OPPORTUNITY SCHOLARSHIP TAX CREDIT

25 Section 1701-G.1. Scope of article.

26 This article establishes the educational opportunity
27 scholarship tax credit.

28 Section 1702-G.1. Definitions.

29 The following words and phrases when used in this article
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Applicant." An eligible student who applies for a
3 scholarship.

4 "Assessment." The Pennsylvania System of School Assessment
5 test, the Keystone Exam, an equivalent local assessment or
6 another test established by the State Board of Education to meet
7 the requirements of section 2603-B(d)(10)(i) of the Public
8 School Code of 1949 and required under the No Child Left Behind
9 Act of 2001 (Public Law 107-110, 115 Stat. 1425) or its
10 successor statute or any other test required to achieve other
11 standards established by the Department of Education for the
12 public school or school district under 22 Pa. Code § 403.3
13 (relating to single accountability system).

14 "Attendance boundary." A geographic area of residence used
15 by a school district to assign a student to a public school.

16 "Average daily membership." As defined in section 2501(3) of
17 the Public School Code of 1949.

18 "Business firm." An entity authorized to do business in this
19 Commonwealth and subject to a tax under Article XVI of the act
20 of May 17, 1921 (P.L.682, No.284), known as The Insurance
21 Company Law of 1921, or taxes imposed under Article III, IV, VI,
22 VII, VIII, IX or XV. The term includes a pass-through entity.

23 "Contribution." A donation of cash, personal property or
24 services, the value of which is the net cost of the donation to
25 the donor or the pro rata hourly wage, including benefits, of
26 the individual performing the services.

27 "Department." The Department of Community and Economic
28 Development of the Commonwealth.

29 "Elementary school." A school which is not a secondary
30 school.

1 "Eligible student." A student or a student with a disability
2 who:

3 (1) resides within the attendance boundary of a low-
4 achieving school as of the first day of classes of the school
5 year; and

6 (2) is a member of a household which has a household
7 income no greater than the maximum annual household income
8 allowance.

9 "Household." An individual who lives alone or with the
10 following: a spouse, parent and their unemancipated minor
11 children, other unemancipated minor children who are related by
12 blood or marriage or other adults or unemancipated minor
13 children living in the household who are dependent upon the
14 individual.

15 "Household income." All moneys or property received by a
16 household of whatever nature and from whatever source derived.
17 The term does not include the following:

18 (1) Periodic payments for sickness and disability other
19 than regular wages received during a period of sickness or
20 disability.

21 (2) Disability, retirement or other payments arising
22 under workers' compensation acts, occupational disease acts
23 and similar legislation by any government.

24 (3) Payments commonly recognized as old-age or
25 retirement benefits paid to persons retired from service
26 after reaching a specific age or after a stated period of
27 employment.

28 (4) Payments commonly known as public assistance or
29 unemployment compensation payments by a governmental agency.

30 (5) Payments to reimburse actual expenses.

1 (6) Payments made by employers or labor unions for
2 programs covering hospitalization, sickness, disability or
3 death, supplemental unemployment benefits, strike benefits,
4 Social Security and retirement.

5 (7) Compensation received by United States servicemen
6 serving in a combat zone.

7 "Income allowance."

8 (1) The following shall apply:

9 (i) After June 30, 2012, and through June 30, 2013,
10 \$12,000 for each dependent member of the household.

11 (ii) After June 30, 2013, and through June 30, 2014,
12 \$15,000 for each dependent member of the household.

13 (2) Beginning July 1, 2014, the Department of Community
14 and Economic Development shall annually adjust the income
15 allowance amounts under paragraph (1) to reflect any upward
16 changes in the Consumer Price Index for All Urban Consumers
17 for the Pennsylvania, New Jersey, Delaware and Maryland area
18 in the preceding 12 months and shall immediately submit the
19 adjusted amounts to the Legislative Reference Bureau for
20 publication as a notice in the Pennsylvania Bulletin.

21 "Kindergarten." A one-year formal educational program that
22 occurs during the school year immediately prior to first grade.
23 The term includes a part-time and a full-time program.

24 "Low-achieving school." A public school that ranked in the
25 lowest 15% of its designation as an elementary school or a
26 secondary school based on combined mathematics and reading
27 scores from the annual assessment administered in the previous
28 school year and for which the Department of Education has posted
29 results on its publicly accessible Internet website. The term
30 does not include a charter school, cyber charter school or area

1 vocational-technical school.

2 "Maximum annual household income allowance."

3 (1) Except as stated in paragraph (2) and subject to
4 adjustment under paragraph (3), the sum of:

5 (i) Either:

6 (A) after June 30, 2012, and through June 30,
7 2013, not more than \$60,000; or

8 (B) after June 30, 2013, not more than \$75,000.

9 (ii) The applicable income allowance.

10 (2) With respect to a student with a disability, as
11 calculated by multiplying:

12 (i) the applicable amount under paragraph (1); by

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

15 Support Level	Support Level Factor
16 1	1.50
17 2	2.993

18 (3) Beginning July 1, 2014, the Department of Community
19 and Economic Development shall annually adjust the income
20 amounts under paragraphs (1) and (2) to reflect any upward
21 changes in the Consumer Price Index for All Urban Consumers
22 for the Pennsylvania, New Jersey, Delaware and Maryland area
23 in the preceding 12 months and shall immediately submit the
24 adjusted amounts to the Legislative Reference Bureau for
25 publication as a notice in the Pennsylvania Bulletin.

26 "Nonpublic school." A school which is a nonprofit
27 organization and which is located in the Commonwealth. The term
28 does not include a public school.

29 "Parent." An individual who:

30 (1) is a resident of the Commonwealth; and

1 (2) either:

2 (i) has legal custody or guardianship of a student;

3 or

4 (ii) keeps in his home a student and supports the
5 student gratis as if the student were a lineal descendant
6 of the individual.

7 "Participating nonpublic school." A nonpublic school which
8 notifies the Department of Education under section 1710-G.1 that
9 it wishes to participate in the program.

10 "Participating public school." A public school in a school
11 district which notifies the Department of Education under
12 section 1710-G.1(b) that it wishes to participate in the
13 program. The term shall not include a low-achieving school.

14 "Pass-through entity." A partnership as defined in section
15 301(n.0), a single-member limited liability company treated as a
16 disregarded entity for Federal income tax purposes or a
17 Pennsylvania S corporation as defined in section 301(n.1).

18 "Public School Code of 1949." The act of March 10, 1949
19 (P.L.30, No.14), known as the Public School Code of 1949.

20 "Program." The Educational Opportunity Scholarship Tax
21 Credit Program established under this article.

22 "Recipient." An applicant who receives a scholarship.

23 "Scholarship." An award given to an applicant for the
24 recipient to pay tuition and school-related fees necessary to
25 attend a participating nonpublic school or a participating
26 public school located in a school district which is not the
27 recipient's school district of residence.

28 "Scholarship organization." A nonprofit entity which:

29 (1) is exempt from Federal taxation under section
30 501(c) (3) of the Internal Revenue Code of 1986 (Public Law

1 99-514, 26 U.S.C. § 1 et seq.); and

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

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

10 "School." An elementary school or a secondary school at
11 which the compulsory attendance requirements of the Commonwealth
12 may be met and which meets the applicable requirements of Title
13 VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat.
14 241).

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

21 "School district of residence." The school district in which
22 the student's primary domicile is located.

23 "School-related fees." Fees charged by a school to all
24 students for books, instructional materials, technology
25 equipment and services, uniforms and activities.

26 "Secondary school." A school with an eleventh grade.

27 "Special education school." A school or program within a
28 school that is designated specifically and exclusively for
29 students with any of the disabilities listed in 34 CFR § 300.8
30 (relating to child with a disability) and meets one of the

1 following:

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

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

6 (3) is a school for the blind or deaf receiving
7 Commonwealth appropriations; or

8 (4) is operated by or under the authority of a bona fide
9 religious institution or by the Commonwealth or any political
10 subdivision thereof.

11 "Student." An individual who meets all of the following:

12 (1) Is school age.

13 (2) Is a resident of this Commonwealth.

14 (3) Attends or is about to attend a school.

15 "Student with a disability." A student who meets all of the
16 following:

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

22 (2) Needs special education and related services.

23 "Support level." The level of support needed by an eligible
24 student with a disability, as provided in the following matrix:

25 Support Level 1 - The student is not enrolled in a
26 special education school.

27 Support Level 2 - The student is enrolled as a student in
28 a special education school.

29 Section 1703-G.1. Qualification and application.

30 (a) Establishment.--The Educational Opportunity Scholarship

1 Tax Credit Program is established. The program shall provide tax
2 credits to entities that provide contributions to scholarship
3 organizations. The scholarship organizations must enhance the
4 educational opportunities available to students in this
5 Commonwealth by providing scholarships to eligible students who
6 reside within the attendance boundary of low-achieving schools
7 to attend schools which are not low-achieving schools and which
8 are not a public school within the school district of residence.

9 (b) Information.--In order to qualify under this article, a
10 scholarship organization must submit information to the
11 department that enables the department to confirm that the
12 scholarship organization is exempt from taxation under section
13 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-
14 514, 26 U.S.C. § 1 et seq.).

15 (c) Annual certification of eligibility.--By August 15,
16 2012, and by February 15, 2013, and each February 15 thereafter,
17 a scholarship organization must certify to the department that
18 the organization is eligible to participate in the program.

19 (d) Report.--

20 (1) A scholarship organization must agree to report the
21 following information on a form provided by the department by
22 September 1, 2013, and each September 1 thereafter:

23 (i) The total number of applications for
24 scholarships received during the immediately preceding
25 school year from eligible students in grades kindergarten
26 through eight.

27 (ii) The number of scholarships awarded during the
28 immediately preceding school year to eligible students in
29 grades kindergarten through eight.

30 (iii) The total and average amounts of the

1 scholarships awarded during the immediately preceding
2 school year to eligible students in grades kindergarten
3 through eight.

4 (iv) The total number of applications for
5 scholarships received during the immediately preceding
6 school year from eligible students in grades 9 through
7 12.

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

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

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

20 (viii) The number of scholarships awarded during the
21 immediately preceding school year to applicants with a
22 household income that does not exceed 185% of the Federal
23 poverty level.

24 (ix) The total and average amounts of the
25 scholarships awarded during the immediately preceding
26 school year to applicants with a household income that
27 does not exceed 185% of the Federal poverty level.

28 (x) The number of scholarships awarded during the
29 immediately preceding school year to applicants with a
30 household income that does not exceed 185% of the Federal

1 poverty level and who reside within a first class school
2 district.

3 (xi) The total and average amounts of the
4 scholarships awarded during the immediately preceding
5 school year to applicants with a household income that
6 does not exceed 185% of the Federal poverty level and who
7 reside within a first class school district.

8 (xii) The number of scholarships awarded during the
9 immediately preceding school year to applicants with a
10 household income that does not exceed 185% of the Federal
11 poverty level and who reside within a school district
12 with an average daily membership greater than 7,500 and
13 that receives an advance of its basic education subsidy
14 at any time.

15 (xiii) The total and average amounts of the
16 scholarships awarded during the immediately preceding
17 school year to applicants with a household income that
18 does not exceed 185% of the Federal poverty level and who
19 reside within a school district with an average daily
20 membership greater than 7,500 and that receives an
21 advance of its basic education subsidy at any time.

22 (xiv) The number of scholarships awarded during the
23 immediately preceding school year to applicants with a
24 household income that does not exceed 185% of the Federal
25 poverty level and who reside within a school district
26 that receives an advance of its basic education subsidy
27 at any time and is either subject to a declaration of
28 financial distress under section 691 of the Public School
29 Code of 1949 or engaged in litigation against the
30 Commonwealth in which the school district seeks financial

1 assistance from the Commonwealth to allow the school
2 district to continue to operate.

3 (xv) The total and average amounts of the
4 scholarships awarded during the immediately preceding
5 school year to applicants with a household income that
6 does not exceed 185% of the Federal poverty level and who
7 reside within a school district that receives an advance
8 of its basic education subsidy at any time and is either
9 subject to a declaration of financial distress under
10 section 691 of the Public School Code of 1949 or is
11 engaged in litigation against the Commonwealth in which
12 the school district seeks financial assistance from the
13 Commonwealth to allow the school district to continue to
14 operate.

15 (xvi) The total number of scholarship applications
16 processed and the amounts of any application fees charged
17 either per scholarship application or in the aggregate
18 through a third-party processor.

19 (xvii) The scholarship organization's Federal Form
20 990 or other Federal form indicating the tax status of
21 the scholarship organization for Federal tax purposes, if
22 any, and a copy of a compilation, review or audit of the
23 scholarship organization's financial statements conducted
24 by a certified public accounting firm.

25 (2) No later than May 1, 2013, and each May 1
26 thereafter, the department shall annually distribute such
27 sample forms, together with the forms on which the reports
28 are required to be made, to each listed scholarship
29 organization.

30 (3) The department may not require any other information

1 to be provided by scholarship organizations, except as
2 expressly authorized in this article.

3 (e) Notification.--The department shall notify a scholarship
4 organization that it meets the requirements of this article for
5 that fiscal year no later than 60 days after the scholarship
6 organization submits the information required under this
7 section.

8 (f) Publication.--The department shall annually publish a
9 list of each scholarship organization qualified under this
10 section in the Pennsylvania Bulletin and shall post and update
11 the list as necessary on the publicly accessible Internet
12 website of the department.

13 Section 1704-G.1. Tax credit application.

14 (a) Scholarship organization.--A business firm shall apply
15 to the department for a tax credit under section 1705-G.1. A
16 business firm shall receive a tax credit under this article if
17 the scholarship organization that receives the contribution
18 appears on the list published under section 1703-G.1(f).

19 (b) Availability of tax credits.--Tax credits under this
20 article shall be made available by the department on a first-
21 come-first-served basis within the limitation established under
22 section 1706-G.1(a).

23 (c) Contributions.--A contribution by a business firm to a
24 scholarship organization shall be made no later than 60 days
25 following the approval of an application under subsection (a).

26 Section 1705-G.1. Tax credit.

27 (a) Scholarship organizations.--

28 (1) In accordance with section 1706-G.1(a), the
29 Department of Revenue shall grant a tax credit against any
30 tax due under Article XVI of the act of May 17, 1921

1 (P.L.682, No.284), known as The Insurance Company Law of
2 1921, or under Article III, IV, VI, VII, VIII, IX or XV to a
3 business firm providing proof of a contribution to a
4 scholarship organization in the taxable year in which the
5 contribution is made, which shall not exceed 75% of the total
6 amount contributed during the taxable year by the business
7 firm.

8 (2) For the fiscal year 2012-2013, the tax credit shall
9 not exceed \$400,000 annually per business firm for
10 contributions made to scholarship organizations.

11 (3) For the fiscal years 2013-2014 and each fiscal year
12 thereafter, the tax credit shall not exceed \$750,000 annually
13 per business firm for contributions made to scholarship
14 organizations.

15 (b) Additional amount.--

16 (1) The Department of Revenue shall grant a tax credit
17 of up to 90% of the total amount contributed during the
18 taxable year if the business firm provides a written
19 commitment to provide the scholarship organization with the
20 same amount of contribution for two consecutive tax years.

21 (2) The business firm must provide the written
22 commitment under this subsection to the department at the
23 time of application.

24 (c) Combination of tax credits.--

25 (1) A business firm may receive tax credits from the
26 Department of Revenue in any tax year for any combination of
27 contributions under subsection (a) or (b).

28 (2) In no case may a business firm receive tax credits
29 in any tax year:

30 (i) in excess of \$400,000 for contributions under

1 subsections (a) and (b) made during fiscal year 2012-
2 2013; or

3 (ii) in excess of \$750,000 for contributions under
4 subsections (a) and (b) made during fiscal year 2013-2014
5 or any fiscal year thereafter.

6 (d) Pass-through entity.--

7 (1) If a pass-through entity does not intend to use all
8 approved tax credits under this section, it may elect in
9 writing to transfer all or a portion of the credit to
10 shareholders, members or partners in proportion to the share
11 of the entity's distributive income to which the shareholder,
12 member or partner is entitled for use in the taxable year in
13 which the contribution is made or in the taxable year
14 immediately following the year in which the contribution is
15 made. The election shall designate the year in which the
16 transferred credits are to be used and shall be made
17 according to procedures established by the Department of
18 Revenue.

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

22 (3) The shareholder, member or partner may not carry
23 forward, carry back, obtain a refund of or sell or assign the
24 credit.

25 (e) Restriction on applicability of credits.--No credits
26 granted under this section shall be applied against any tax
27 withheld by an employer from an employee under Article III.

28 (f) Time of application for credits.--

29 (1) Except as provided in paragraph (2), the department
30 may accept applications for tax credits available during a

1 fiscal year no earlier than July 1 of each fiscal year.

2 (2) The application of any business firm for tax credits
3 available during a fiscal year as part of the second year of
4 a two-year commitment or as a renewal of a two-year
5 commitment that was fulfilled in the previous fiscal year may
6 be accepted no earlier than May 15 preceding the fiscal year.

7 Section 1706-G.1. Tax credit limitations.

8 (a) Amount.--The total aggregate amount of all tax credits
9 approved shall not exceed \$50,000,000 in a fiscal year.

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

13 (c) Tax liability.--

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

17 (2) In the case of a credit granted to a pass-through
18 entity which elects to transfer the credit according to
19 section 1705-G.1(d), a tax credit granted for any one taxable
20 year and transferred to a shareholder, member or partner may
21 not exceed the tax liability of the shareholder, member or
22 partner.

23 (d) Use.--A tax credit not used by the applicant in the
24 taxable year the contribution was made or in the year designated
25 by the shareholder, member or partner to whom the credit was
26 transferred under section 1705-G.1(d) may not be carried forward
27 or carried back and is not refundable or transferable.

28 (e) Nontaxable income.--A scholarship received by an
29 eligible student shall not be considered to be taxable income
30 for the purposes of Article III.

1 Section 1707-G.1. Tax credit lists.

2 The Department of Revenue shall provide a list of all
3 scholarship organizations receiving contributions from business
4 firms granted a tax credit under this article to the General
5 Assembly by June 30 of each year.]

6 Section 8. Section 1708-G.1 of the act, amended or added
7 July 2, 2012 (P.L.751, No.85) and July 9, 2013 (P.L.270, No.52),
8 is repealed.

9 [Section 1708-G.1. Scholarships.

10 (a) Notice.--By August 15, 2012, and by February 1 of each
11 year thereafter, the department shall provide all scholarship
12 organizations with a list of the low-achieving schools located
13 within each school district.

14 (b) Award.--A scholarship organization may award a
15 scholarship to an applicant who resides within the attendance
16 boundary of a low-achieving school to attend a participating
17 public school or a participating nonpublic school selected by
18 the parent of the applicant. If an applicant who received an
19 educational opportunity scholarship under this article for the
20 prior school year resides within the attendance boundary of a
21 school that was removed from the list of low-achieving schools
22 provided by the department under subsection (a), the applicant
23 may receive an educational opportunity scholarship. The
24 scholarship may be for each year of enrollment in a
25 participating public school or participating nonpublic school
26 for up to the lesser of five years or until completion of grade
27 12 provided the applicant otherwise remains eligible. In
28 awarding scholarships, a scholarship organization shall give
29 preference to any of the following:

30 (1) An applicant who received a scholarship for the

1 prior school year.

2 (2) An applicant of a household with a household income
3 that does not exceed 185% of the Federal poverty level for
4 the school year preceding the school year for which the
5 application is being made.

6 (3) An applicant of a household with a household income
7 that does not exceed 185% of the Federal poverty level for
8 the school year preceding the school year for which the
9 application is being made and who resides within any of the
10 following:

11 (i) a first class school district;

12 (ii) a school district with an average daily
13 membership greater than 7,500 and that receives an
14 advance of its basic education subsidy at any time; or

15 (iii) a school district that receives an advance of
16 its basic education subsidy at any time and is either
17 subject to a declaration of financial distress under
18 section 691 of the Public School Code of 1949 or engaged
19 in litigation against the Commonwealth in which the
20 school district seeks financial assistance from the
21 Commonwealth to allow the school district to continue to
22 operate.

23 (c) Home schooling.--A scholarship organization shall not
24 award a scholarship to an applicant for enrollment in a home
25 education program under section 1327.1 of the Public School Code
26 of 1949.

27 (d) Funding.--The aggregate amount of scholarships shall not
28 exceed the aggregate amount of contributions made by business
29 firms to the scholarship organization.

30 (e) Amount.--

1 (1) The maximum amount of a scholarship awarded to an
2 applicant without a disability shall be \$8,500.

3 (2) The maximum amount of a scholarship awarded to an
4 applicant with a disability shall be \$15,000.

5 (3) In no case shall the combined amount of the
6 scholarship awarded to a recipient and any additional
7 financial assistance provided to the recipient exceed the
8 tuition rate and school-related fees for the participating
9 public school or participating nonpublic school that the
10 recipient will attend.

11 (f) Taxation.--A scholarship shall not be considered taxable
12 income for purposes of Article III or a local taxing ordinance.

13 (g) Financial assistance.--A scholarship shall not
14 constitute financial assistance or an appropriation to the
15 participating public school or the participating nonpublic
16 school attended by a recipient.]

17 Section 9. Sections 1709-G.1, 1710-G.1, 1711-G.1 and 1712-
18 G.1 of the act, added July 2, 2012, are repealed:

19 [Section 1709-G.1. Low-achieving schools.

20 (a) List of low-achieving schools.--By September 1, 2012,
21 and by February 1 of each year thereafter, the Department of
22 Education shall publish on its publicly accessible Internet
23 website and in the Pennsylvania Bulletin a list of the low-
24 achieving schools for the following school year.

25 (b) Notice.--By August 1, 2012, and by February 1 of each
26 year thereafter, the Department of Education shall notify every
27 school district identified as having at least one low-achieving
28 school of its designation and shall furnish the school district
29 with a list of the low-achieving schools located within the
30 school district.

1 (c) Publication.--Within 15 days of receipt of a
2 notification under subsection (b), a school district shall post
3 on its publicly accessible Internet website notice of all of the
4 following:

5 (1) A description of the program.

6 (2) Instructions for applying for a scholarship.

7 (3) A list of schools in the school district that have
8 been designated by the Department of Education as low-
9 achieving schools.

10 (4) Notice that a parent must contact directly a school
11 district of a participating public school or a participating
12 nonpublic school if the parent seeks to enroll the student in
13 the program.

14 (d) Notification to parents.--

15 (1) Within 15 days of receipt of a notification under
16 subsection (b), a school district shall notify the parents of
17 each student who is currently attending or residing within
18 the attendance boundary of a low-achieving school during the
19 school year of the school's designation.

20 (2) Upon registration of a kindergarten student, a
21 school district shall notify the parents of the kindergarten
22 student that the student will be assigned to a low-achieving
23 school during the school year of the school's designation.

24 (3) The notice shall be in a form provided by the
25 Department of Education and shall provide the following
26 information regarding the program:

27 (i) A description of the program.

28 (ii) Instructions for obtaining information about
29 applying for a scholarship under the program.

30 (iii) Notice of the parent's responsibilities with

1 regard to applying to a school district of a
2 participating public school or a participating nonpublic
3 school if the parent seeks to enroll the student in the
4 program.

5 (e) Average daily membership.--

6 (1) Notwithstanding any other provision of law to the
7 contrary, a recipient who was enrolled in the recipient's
8 resident school district or in a charter school, regional
9 charter school or cyber charter school when the recipient
10 first received a scholarship shall continue to be counted in
11 the average daily membership of the school district for a
12 period of one year after enrolling in a participating public
13 school or a participating nonpublic school.

14 (2) During the year referenced in paragraph (1) and each
15 school year thereafter, a school district of a participating
16 public school in which the recipient is enrolled shall not
17 include the recipient in the school district's average daily
18 membership.

19 Section 1710-G.1. School participation in program.

20 (a) Election.--

21 (1) By August 15, 2012, and by February 15 of each year
22 thereafter, a nonpublic school may elect to participate in
23 the program for the following school year.

24 (2) By August 15, 2012, and by February 15 of each year
25 thereafter, a school district may elect to participate in the
26 program for the following school year.

27 (b) Notice.--

28 (1) A school district or nonpublic school that elects to
29 participate under subsection (a) must notify the Department
30 of Education of its intent to participate.

1 (2) For a school district, the notice under paragraph
2 (1) must be submitted on a form developed by the Department
3 of Education and shall specify all of the following:

4 (i) Each school within the school district which the
5 school district intends to make a participating public
6 school.

7 (ii) The amount of tuition and school-related fees
8 attributable to each available seat. The amount under
9 this subparagraph shall not exceed the amount calculated
10 under section 2561 of the Public School Code of 1949.

11 (3) For a nonpublic school, the notice under paragraph
12 (1) must be submitted on a form developed by the Department
13 of Education and shall specify the amount of tuition and
14 school-related fees attributable to an available seat.

15 (c) Tuition rates.--

16 (1) No school district of a participating public school
17 or participating nonpublic school may charge a recipient a
18 higher tuition rate or school-related fee than the
19 participating public school or participating nonpublic school
20 would have charged to a similarly situated student who is not
21 receiving a scholarship.

22 (2) Notwithstanding the provisions of section 2561 of
23 the Public School Code of 1949, a school district of a
24 participating public school may charge a recipient a tuition
25 rate that is lower than that charged to students who are not
26 recipients of scholarships.

27 (d) Participating public school criteria.--The following
28 criteria apply to a participating public school:

29 (1) Except as otherwise provided in this article, a
30 school district shall enroll students in a participating

1 public school on a lottery basis from a pool of recipients
2 who meet the application deadline set by the Department of
3 Education until the participating public school fills its
4 available seats. The pool may not include a recipient who:

5 (i) has been expelled or is in the process of being
6 expelled under section 1317.2 or 1318 of the Public
7 School Code of 1949 and applicable regulations of the
8 State Board of Education; or

9 (ii) has been recruited by the school district or
10 its representatives for athletic purposes.

11 (2) The enrollment of recipients may not place the
12 school district in violation of a valid and binding
13 desegregation order.

14 (3) Priority shall be given to:

15 (i) An existing recipient.

16 (ii) A recipient who is a sibling of a student
17 currently enrolled in the school district.

18 (e) Participating nonpublic school criteria.--The following
19 criteria apply to a participating nonpublic school:

20 (1) The participating nonpublic school may not
21 discriminate on a basis which is illegal under Federal or
22 State laws applicable to nonpublic schools.

23 (2) The participating nonpublic school shall comply with
24 section 1521 of the Public School Code of 1949.

25 (3) The participating nonpublic school or its
26 representatives may not recruit a student for athletic
27 purposes.

28 (f) Student rules, policies and procedures.--

29 (1) Prior to enrollment of a recipient, a school
30 district of a participating public school or a participating

1 nonpublic school shall inform the parent of a recipient of
2 any and all rules, policies and procedures of the
3 participating public school or participating nonpublic
4 school, including any academic policies, disciplinary rules
5 and administrative procedures of the participating public
6 school or participating nonpublic school.

7 (2) Enrollment of a recipient in a participating public
8 school or participating nonpublic school shall constitute
9 acceptance of any rules, policies and procedures of the
10 participating public school or participating nonpublic
11 school.

12 (g) Transportation.--

13 (1) Transportation of recipients shall be provided under
14 section 1361 of the Public School Code of 1949.

15 (2) Reimbursement shall be as follows:

16 (i) Transportation of a recipient attending a
17 participating public school shall be subject to
18 reimbursement under section 2541 of the Public School
19 Code of 1949.

20 (ii) Transportation of a recipient attending a
21 participating nonpublic school shall be subject to
22 reimbursement under sections 2509.3 and 2541 of the
23 Public School Code of 1949.

24 (h) Construction.--Nothing in this article shall be
25 construed to:

26 (1) Prohibit a participating nonpublic school from
27 limiting admission to a particular grade level, a single
28 gender or areas of concentration of the participating
29 nonpublic school, including mathematics, science and the
30 arts.

1 (2) Authorize the Commonwealth or any of its agencies or
2 officers or political subdivisions to impose any additional
3 requirements on a participating nonpublic school which are
4 not otherwise authorized under the laws of this Commonwealth
5 or to require a participating nonpublic school to enroll a
6 recipient if the participating nonpublic school does not
7 offer appropriate programs or is not structured or equipped
8 with the necessary facilities to meet the special needs of
9 the recipient or does not offer a particular program
10 requested.

11 Section 1711-G.1. Tuition grants by school districts.

12 (a) General rule.--The board of school directors of a school
13 district may use funds received from the Commonwealth for
14 educational purposes to establish a program of tuition grants to
15 provide for the education of students who reside within the
16 district and attend or will attend a public or nonpublic school
17 on a tuition-paying basis.

18 (b) Nonpublic school grant amount.--For students who attend
19 or will attend a nonpublic school, the grant amount for each
20 student shall not exceed the amount of the per pupil State
21 subsidy for basic education of the school district of residence.

22 (c) Average daily membership.--

23 (1) A student who receives a tuition grant under this
24 section shall be included in the average daily membership for
25 purposes of determining the school district of residence's
26 basic education funding.

27 (2) A student who receives a grant under this section to
28 attend a public school outside the school district awarding
29 the tuition grant shall not be included in the average daily
30 membership of the school district the student attends.

1 (d) Guidelines.--

2 (1) The board of school directors of a school district
3 shall prepare guidelines establishing an application form and
4 approval process, standards for verification as to the
5 accuracy of application information, confirmation of
6 attendance by a student who receives a tuition grant,
7 restrictive endorsement of grant checks by parents to the
8 school chosen by the parents, pro rata refunds of grants for
9 students who withdraw during the school year, repayment of
10 refunded grants to the school district and reasonable
11 deadline dates for submission of grant applications.

12 (2) The board of school directors of a school shall
13 announce the award of grants no later than August 1 of the
14 school year in which the grants will be utilized.

15 (3) Upon receipt of written confirmation of enrollment
16 from the student's school of choice, grants shall be paid to
17 the parents of a student by a check that may only be endorsed
18 to the selected school.

19 (4) In the event a student is no longer enrolled prior
20 to the completion of the school term, the school shall send
21 written notice thereof to the school district.

22 (e) Nontaxable.--Grants awarded to students under this
23 section shall not be considered taxable income for purposes of
24 any local taxing ordinance or for purposes of Article III, nor
25 shall such grants constitute financial assistance or
26 appropriations to the school attended by the student.

27 (f) Construction.--Nothing in this section shall be
28 construed to empower the Commonwealth or any school district or
29 any of their agencies or officers to:

30 (1) prescribe the course content or admissions criteria

1 for any religiously affiliated school;

2 (2) compel any private school to accept or enroll a
3 student;

4 (3) impose any additional requirements on any private
5 school that are not otherwise authorized; or

6 (4) require any school to accept or retain a student if
7 the school does not offer programs or is not structured or
8 equipped with the necessary facilities to meet the special
9 needs of the student or does not offer a particular program
10 requested.

11 Section 1712-G.1. Original jurisdiction.

12 The Pennsylvania Supreme Court shall have exclusive and
13 original jurisdiction to hear any challenge or to render a
14 declaratory judgment concerning the constitutionality of this
15 article. The Pennsylvania Supreme Court may take such action as
16 it deems appropriate, consistent with the Pennsylvania Supreme
17 Court's retaining jurisdiction over such a matter, to find facts
18 or to expedite a final judgment in connection with such a
19 challenge or request for declaratory relief.]

20 Section 10. This act shall take effect July 1, 2014, or
21 immediately, whichever is later.