

No. 2004-72

AN ACT

## SB 100

Providing for taxation by school districts, for State funds and for wage and net profits tax relief in cities of the first class; and making an appropriation.

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

CHAPTER 1  
PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Homeowner Tax Relief Act.

Section 102. Definitions.

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

“Actual instruction expense.” The term shall have the same usage as in the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

“Average daily membership.” The term shall have the same usage as in the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

“Market value/income aid ratio.” As defined in section 2501(14.1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

“Personal income valuation.” As defined in section 2501(9.1) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

### CHAPTER 3 TAXATION BY SCHOOL DISTRICTS SUBCHAPTER A GENERAL PROVISIONS

#### Section 301. Scope.

This chapter relates to homeowner tax relief.

#### Section 302. Definitions.

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

“Assessor.” As defined in 53 Pa.C.S. § 8582 (relating to definitions).

“Board of school directors.” A board of school directors of a school district of the first class A, second class, third class or fourth class.

“Construction cost average on a square-foot basis.” An amount equal to \$128 per square foot for an elementary school building and \$133 per square foot for a secondary school building, as adjusted annually by the percentage increase in the average of the Statewide average weekly wage and the employment cost index.

“Department.” The Department of Education of the Commonwealth.

“Domicile.” As defined in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Earned income.” As defined in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Election officials.” The board of elections of a county.

“Employer.” As defined in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

“Employment Cost Index.” The most recent official figures, for the previous 12-month period beginning July 1 and ending June 30 for the Employment Cost Index Series for Elementary and Secondary Schools, reported by the Bureau of Labor Statistics of the Federal Department of Labor.

“Farmstead.” As defined in 53 Pa.C.S. § 8582 (relating to definitions).

“Farmstead property.” As defined in 53 Pa.C.S. § 8582 (relating to definitions).

“Fund.” The Property Tax Relief Fund established in the State Treasury.

“Homestead.” As defined in 53 Pa.C.S. § 8401 (relating to definitions).

“Homestead property.” As defined in 53 Pa.C.S § 8401 (relating to definitions).

“Income tax.” A tax on earned income and net profits or a tax on personal income imposed pursuant to this chapter.

“Index.” As follows:

(1) Except as set forth in paragraph (2), the average of the percentage increase in the Statewide average weekly wage and the Employment Cost Index.

(2) For a school district with a market value/income aid ratio greater than 0.400 for the school year prior to the school year for which the index is calculated, the value under paragraph (1) multiplied by the sum of:

(i) 0.75; and

(ii) the school district’s market value/income aid ratio for the school year prior to the school year for which the index is calculated.

“Local Tax Enabling Act.” The act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Local tax revenue.” The revenue from taxes actually levied and assessed by a school district, including delinquent taxes. The term does not include interest or dividend earnings, Federal or State grants, contracts or appropriations, income generated from operations or any other source which is not derived from taxes levied and assessed by a school district.

“Net profits.” As defined in section 13 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

“Personal income.” Income enumerated in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, as determined by the Department of Revenue, subject to any correction thereof for fraud, evasion or error as finally determined by the Commonwealth.

“Resident individual.” An individual who is domiciled in a school district.

“School district.” A school district of the first class A, second class, third class or fourth class.

“Statewide average weekly wage.” That amount determined by the Department of Labor and Industry in the same manner that it determines the average weekly wage under section 404(e)(2) of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law, except that it shall be calculated for the preceding calendar year.

“Tax Reform Code.” The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

“Taxpayer.” An individual required under this chapter to pay a tax.  
Section 303. Limitations.

This chapter shall not be construed to affect the power of a school district to do any of the following:

(1) To eliminate its occupation tax pursuant to the act of June 22, 2001 (P.L.374, No.24), known as the Optional Occupation Tax Elimination Act. Except for the municipal election of 2007 or for an election in which a school district seeks to impose a personal income tax under section 321(c), a school district may place such referendum question on the ballot at the same municipal election as a referendum question placed on the ballot pursuant to Subchapter D. If a school district converts its earned income and net profits tax to a personal income tax under this chapter, the school district may not utilize the Optional Occupation Tax Elimination Act.

(2) To levy, assess or collect a tax on earned income and net profits under the Local Tax Enabling Act.

(3) To impose special purpose tax levies approved by the electorate.  
Section 304. Certain rates of taxation limited.

(a) Municipal rates.—If a municipality and school district both impose an earned income and net profits tax on the same individual under the Local Tax Enabling Act and are limited to or have agreed upon a division of the tax rate in accordance with section 8 of the Local Tax Enabling Act, the municipality shall remain subject to that limitation or agreement in the event that the school district opts to impose or increase an earned income and net profits tax authorized under section 321(b) or a personal income tax authorized under section 321(c). Nothing in this chapter shall be construed to authorize a municipality to raise the rate of earned income and net profits tax above the rate it levied under the previously agreed upon division if a school district imposes or increases a personal income tax under Subchapter C.

(b) School districts.—A school district which imposes a tax under this chapter is subject to section 688 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

## SUBCHAPTER B SCHOOL DISTRICT BUDGETS

Section 311. Adoption of preliminary budget proposals.

(a) Adoption.—Beginning with the fiscal year to which section 333 applies, each board of school directors shall adopt a preliminary budget proposal for the following fiscal year no later than 90 days prior to the date of the election immediately preceding the fiscal year in which the preliminary budget will take effect.

(b) Contents.—The preliminary budget proposal shall include estimated revenues and expenditures and any proposed tax rates and shall be prepared on a uniform form furnished by the department.

(c) Public inspection.—The board of school directors shall print the preliminary budget proposal and make it available for public inspection at least 20 days prior to its adoption. The board of school directors shall give public notice of its intent to adopt the preliminary budget at least ten days prior to adoption and may hold a public hearing prior to its adoption.

Section 312. Adoption of annual budgets.

(a) Adoption.—Beginning with the fiscal year to which section 333 applies, each board of school directors shall adopt its annual budget for the following fiscal year no later than the last day of the fiscal year before the fiscal year in which the budget takes effect.

(b) Contents.—The annual budget shall include estimated revenues and expenditures and any proposed tax rates and be prepared on a uniform form furnished by the department.

(c) Public inspection.—The board of school directors shall print the annual budget and make it available for public inspection at least 20 days prior to its adoption. The board of school directors shall give public notice of its intent to adopt the annual budget at least ten days prior to adoption and may hold a public hearing prior to its adoption.

Section 313. Information to school districts.

No later than September 30 of the year in which a property tax reduction allocation under section 505 is made and September 30 of each year thereafter the department shall provide each school district with the following information:

- (1) The dates by which actions required under this chapter shall take place.
- (2) The index for the applicable fiscal year.

SUBCHAPTER C  
GENERAL TAX AUTHORIZATION

Section 321. General tax authorization.

(a) General rule.—A board of school directors may levy, assess and collect a tax on earned income and net profits or a tax on personal income as provided in this section for the purpose of funding homestead and farmstead exclusions to reduce school district property taxes.

(b) Earned income and net profits tax.—

(1) Pursuant to section 331, a board of school directors may levy, assess and collect a tax of 0.1% on earned income and net profits of resident individuals for purposes of qualifying for a property tax reduction allocation under Chapter 5 to fund homestead and farmstead exclusions.

(2) In addition to the authorization provided under paragraph (1), a school district may, in accordance with section 332, levy an additional tax on earned income and net profits of resident individuals for the purpose of further funding homestead and farmstead exclusions.

(3) Except as authorized in paragraph (4), the combined rate of the earned income and net profits tax authorized under paragraphs (1) and (2) shall not exceed the rate required to raise revenue which, when combined with the school district's property tax reduction allocation under Chapter 5, all revenue received under section 324 and all other revenue currently collected to fund homestead and farmstead exclusions, will be sufficient to fund exclusions for homestead property and farmstead property equal

to the maximum exclusion under 53 Pa.C.S. § 8586 (relating to limitations). The board of school directors shall round the rate of the earned income and net profits tax levied pursuant to this section to the nearest 0.1%. For purposes of calculating the combined tax rate, the portion of tax dedicated to the increase in revenue permitted under paragraph (4), if any, shall be excluded.

(4) Notwithstanding section 334, the rate of the earned income and net profits tax proposed to be levied and assessed for the fiscal year immediately following the year in which the tax is authorized may provide for an increase in revenue of not more than 2% of the estimated revenue from the earned income and net profits tax authorized under paragraph (2), which may be used for the operations of the school district.

(c) Personal income tax.—

(1) After complying with section 331, a board of school directors may levy, assess and collect a tax on the personal income of resident individuals at a rate determined by the board of school directors.

(2) A school district which seeks to levy the tax authorized under paragraph (1) must comply with section 332 and the following:

(i) The school district shall convert, in a revenue-neutral manner, any existing earned income and net profits tax rates levied pursuant to any other act to a personal income tax rate.

(ii) The 0.1% earned income and net profits tax imposed pursuant to section 331 shall be converted to a personal income tax rate which generates the same amount of tax revenue and shall be used for funding exclusions for homestead and farmstead property.

(iii) A school district may, in accordance with section 332, levy an additional tax on the personal income of resident individuals for the purpose of further funding homestead and farmstead exclusions.

(iv) For purposes of the referendum question required under section 332, the personal income tax authorized under paragraph (1) shall be levied at a rate which, when combined with the revenue generated under subparagraph (ii), the school district's property tax reduction allocation under Chapter 5, all revenue received under section 324 and all other revenue currently collected to fund homestead and farmstead exclusions, does not exceed the tax rate required to fund exclusions for homestead and farmstead property equal to the maximum exclusion under 53 Pa.C.S. § 8586. The board of school directors shall round the rate of the personal income tax levied pursuant to this subparagraph to the nearest 0.1%. For purposes of calculating the combined tax rate, the portion of tax dedicated to the increase in revenue permitted under paragraph (6), if any, shall be excluded.

(3) All revenue generated by a school district pursuant to paragraph (2)(ii) and (iii) shall be used as provided in section 334 for the purpose of funding exclusions for homestead and farmstead property.

(4) If a board of school directors seeks to impose a personal income tax under this subsection and the referendum under section 332 is approved by the electorate, the board of school directors shall have no authority to impose an earned income and net profits tax under subsection (b) or under any other act.

(5) A personal income tax imposed under the authority of this section shall be levied by the school district on each of the classes of income specified in section 303 of the Tax Reform Code and regulations under that section, the provisions of which are incorporated by reference into this chapter.

(i) Notwithstanding the provisions of section 353(f) of the Tax Reform Code, the Department of Revenue may permit the proper officer or an authorized agent of a school district imposing a personal income tax pursuant to this chapter to inspect the tax returns of any taxpayer of the school district or may furnish to the officer or an authorized agent an abstract of the return of income of any current or former resident of the school district, or supply information concerning any item of income contained in any tax return. The officer or authorized agent of the school district imposing a tax under this chapter shall be furnished the requested information upon payment to the Department of Revenue of the actual cost of providing the requested information.

(ii) (A) Except for official purposes or as provided by law, it shall be unlawful for any officer or authorized agent of a school district to do any of the following:

(I) Disclose to any other individual or entity the amount or source of income, profits, losses, expenditures or any particular information concerning income, profits, losses or expenditures contained in any return.

(II) Permit any other individual or entity to view or examine any return or copy of a return or any book containing any abstract or particulars.

(III) Print, publish or publicize in any manner any return; any particular information contained in or concerning the return; any amount or source of income, profits, losses or expenditures in or concerning the return; or any particular information concerning income, profits, losses or expenditures contained in or relating to any return.

(B) Any officer or authorized agent of a school district that violates clause (A):

(I) May be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(II) May be removed from office or discharged from employment.



(6) Notwithstanding section 334, the rate of the personal income tax proposed to be levied and assessed for the first fiscal year immediately following the year in which the tax is authorized may provide for an increase in revenue of not more than 2% of the estimated revenue from the personal income tax authorized under paragraph (2)(iii), which may be used for the operations of the school district.

(d) Execution of tax rate.—An earned income and net profits tax rate or personal income tax rate authorized under this section and imposed pursuant to section 331 shall be self-executing and shall be effective beginning on the first day of the fiscal year in which a school district will receive a payment under section 505(b). A tax authorized under section 332 shall be self-executing and shall be effective beginning on the first day of the fiscal year which begins after the tax is authorized. A tax rate under this subsection shall continue in force on a fiscal year basis without annual reenactment except in a year in which the rate of the tax is changed or the tax is repealed.

#### Section 322. Collections.

(a) Designation of tax collector.—A board of school directors imposing an income tax under this chapter shall designate a tax officer under section 10 of the Local Tax Enabling Act, or otherwise by law, as the collector of the tax. In the performance of the tax collection duties under this subchapter, the designated tax officer shall have all the same powers, rights, responsibilities and duties for the collection of the taxes which may be imposed under the Local Tax Enabling Act, 53 Pa.C.S. Ch. 84 Subch. C (relating to local taxpayers bill of rights) or as otherwise provided by law.

(b) Conflict.—In any situation where there is a conflict involving the authority conferred on a local tax collector by the provisions of the Local Tax Enabling Act and the Tax Reform Code, the provisions of the Local Tax Enabling Act shall control.

#### Section 323. Credits.

(a) Credit.—Except as set forth in subsection (b), the provisions of section 14 of the Local Tax Enabling Act shall be applied by a board of school directors to determine any credits applicable to a tax imposed under section 321.

(b) Limitation.—Payment of any tax on income to any state other than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth by a resident of a school district located in this Commonwealth shall not be credited to and allowed as a deduction from the liability of such person for any income tax imposed by the school district of residence pursuant to this chapter.

#### Section 324. Reimbursement.

Notwithstanding any other provisions of law to the contrary, the following apply:

(1) This section only applies to a taxpayer who is a resident of this Commonwealth and not a resident of a city of the first class but who is subject to the tax on salaries, wages, commissions or other compensation

imposed by a city of the first class under the authority of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act.

(2) For tax years beginning in the first calendar year in which a payment under section 505(b) is made and each tax year thereafter, payment of a tax on salaries, wages, commissions or other compensation as set forth in paragraph (1) shall be credited to the school district of the taxpayer's residence at an amount no greater than the tax on salaries, wages, commissions or other compensation as set forth in paragraph (1) imposed by the school district in which the taxpayer resides.

(3) Except as set forth in paragraph (4), an amount equal to the aggregate amount of the tax credited under paragraph (2) shall be paid from the fund to the school district of residence of each taxpayer under paragraph (1) for the purpose of funding homestead and farmstead exclusions in accordance with this chapter. The department shall prescribe procedures to calculate the amount due to each school district qualifying under this paragraph and shall publish the procedures in the Pennsylvania Bulletin.

(4) Notwithstanding paragraph (3), if the certification under section 503(a)(1)(i) is less than \$750,000,000, each eligible school district shall receive a pro rata share of the reimbursement calculated under this section at \$750,000,000.

#### Section 325. Exemption and special provisions.

(a) Earned income and net profits tax.—A school district that imposes an earned income and net profits tax authorized under section 321(b) may exempt from the payment of that tax any person whose total income from all sources is less than \$10,000.

(b) Applicability to personal income tax.—Section 304 of the Tax Reform Code shall apply to any personal income tax levied by a school district under section 321(c).

#### Section 326. Regulations.

A school district that imposes:

(1) an earned income and net profits tax authorized under section 321(b) shall be subject to section 13 of the Local Tax Enabling Act and may adopt procedures for the processing of claims for credits or exemptions under sections 323, 324 and 325; or

(2) a personal income tax authorized under section 321(c) shall be subject to all regulations adopted by the Department of Revenue in administering the tax due to the Commonwealth under Article III of the Tax Reform Code.

#### Section 327. Property tax limits on reassessment.

Notwithstanding any other provision of law, including this act, after any county makes a countywide revision of assessment of real property at values based upon an established predetermined ratio as required by law or after any county changes its established predetermined ratio, a board of school directors in a school district located within that county that has adopted a

resolution imposing the tax under section 331 or in which a referendum under section 332 has been approved by the electorate which, after the effective date of this section, for the first time levies its real estate taxes on that revised assessment or valuation shall for the first year reduce its tax rate, if necessary, for the purpose of having the percentage increase in taxes levied for that year against the real properties contained in the duplicate for the preceding year be less than or equal to the index for the preceding year notwithstanding the increased valuations of such properties under the revised assessment. For the purpose of determining the total amount of taxes to be levied for the first year, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses need not be considered. The tax rate shall be fixed for that year at a figure which will accomplish this purpose. The provisions of section 333 shall apply to increases in the tax rate above the limits provided in this section.

#### SUBCHAPTER D SCHOOL DISTRICT PROPERTY TAX REDUCTION

Section 331. Qualifying contribution.

(a) General rule.—Except as set forth in subsection (b), a school district shall, by resolution, levy, assess and collect the 0.1% earned income and net profits tax authorized under section 321(b)(1) in order to qualify for a property tax reduction allocation under section 505. The board of school directors shall adopt the resolution by May 30 of the first year in which a certification under section 503(a) is made. Within five days after adopting the resolution, the board of school directors shall notify the department in a form and manner prescribed by the department in order to establish the school district's eligibility to receive a property tax reduction allocation pursuant to Chapter 5.

(b) Exception.—Subsection (a) shall not apply if any of the following apply:

(1) A school district which does not, prior to May 30 of the year in which a school district will receive a payment under section 505(b), impose an earned income and net profits tax under the Local Tax Enabling Act or any other statute may qualify for a property tax reduction allocation under Chapter 5 without levying the tax required under subsection (a) if the school district proposes a referendum required under section 332(e). The board of school directors shall adopt a resolution proposing a referendum by May 30 of the year in which a certification under section 503(a) is made. Within five days after adopting the resolution, the board of school directors shall notify the department in a form and manner prescribed by the department in order to establish the school district's eligibility to receive a property tax reduction allocation pursuant to Chapter 5. If a referendum proposed under section 332(e) is not approved by the electorate, a district shall enact by resolution the

0.1% earned income net profits tax authorized under section 321(b)(1) in order to maintain eligibility for a property tax reduction allocation under Chapter 5.

(2) A referendum proposed under section 332(d.1) is approved by the electorate.

Section 332. Adoption of referendum.

(a) General rule.—A board of school directors that complies with section 331 may levy, assess and collect an earned income and net profits tax authorized under section 321(b)(2) or a personal income tax authorized under section 321(c), only after obtaining the approval of the electorate of the school district in a public referendum.

(b) Submittal of referendum.—In addition to the referendum question required under subsection (e):

(1) A board of school directors may submit, at a municipal election, a referendum question to the electors of the school district seeking voter approval allowing the school district to levy, assess and collect an earned income and net profits tax or a personal income tax for the purpose of annually funding homestead and farmstead exclusions. Prior to placing a referendum question on the ballot, the board of school directors must adopt a resolution pursuant to this chapter. The board of school directors must give public notice of its intent to adopt the resolution in the manner provided by section 4 of the Local Tax Enabling Act and must conduct at least one public hearing on the resolution.

(2) The board of school directors shall submit the referendum question required under this section to the election officials of each county in which the school district is situate no later than 60 days prior to a municipal election. The election officials shall cause the referendum question to be submitted to the electors of the school district.

(3) The referendum question shall state the rate of the proposed earned income and net profits tax or personal income tax to be levied, the reason for the tax, the estimated per homestead tax reduction and the current rate of earned income and net profits or personal income tax levied by the school district. The question shall be clear and in language that is readily understandable by a layperson and shall be framed in one of the following forms with the school district resolution enumerating the variable amounts represented by the terms X, Y and Z:

(i) Do you favor imposing an additional X% (insert name of tax)? The revenue generated from the increased tax rate will be used to reduce taxes on qualified residential property by an estimated amount of \$Y. The current (insert name of tax) for the school district is Z%.

(ii) Do you favor converting the school district's current earned income and net profits tax into a personal income tax at X%? The revenue generated from the personal income tax will be used to reduce taxes on qualified residential property by an estimated amount of \$Y

and to replace the revenue from the current school district's earned income and net profits tax, which is now levied at Z%.

(4) The election officials of each county shall, in consultation with the board of school directors, draft a nonlegal interpretative statement which shall accompany the referendum question in accordance with section 201.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The nonlegal interpretative statement shall inform the voters of:

- (i) the reason for the tax;
- (ii) the estimated increase in revenue which the board has included in the proposed tax rate as authorized under section 321(b)(4) or section 321(c)(6);
- (iii) the estimated per homestead tax reduction; and
- (iv) the current rate of earned income and net profits tax or, if applicable, personal income tax levied by the school district.

(c) Proposed tax rate.—The proposed rate of the earned income and net profits tax or personal income tax shall be established by the board of school directors of the school district in accordance with the following:

(1) For the municipal election of 2007, the proposed tax rate shall not be less than the rate required to provide an exclusion for homestead property and farmstead property equal to 50% of the maximum exclusion under 53 Pa.C.S. § 8586 (relating to limitations). The proposed tax rate shall not exceed the rate required to provide an exclusion for homestead property and farmstead property equal to the maximum exclusion under 53 Pa.C.S. § 8586. In calculating the proposed minimum tax rate under this paragraph, a school district shall include:

- (i) funds generated from the tax imposed under section 331;
- (ii) funds received pursuant to a property tax reduction allocation under Chapter 5;
- (iii) funds received under section 324(b); and
- (iv) any funds currently collected for the purposes of providing homestead and farmstead exclusions.

(2) For subsequent municipal elections, the proposed tax rate shall not exceed the rate required to provide an exclusion for homestead property and farmstead property equal to the maximum exclusion under 53 Pa.C.S. § 8586.

(d) Effective date.—Where the referendum question under this section is approved by the electorate, the new rate of the earned income and net profits tax or personal income tax shall take effect pursuant to section 321(d).

(d.1) Municipal election of 2005.—In accordance with subsection (b), a board of school directors may propose a referendum question at the municipal election of 2005. If a referendum question under this subsection is approved by the electorate, the school district shall be deemed to have satisfied the requirements of section 331. If a referendum question under this subsection is not approved by the electorate, all of the following apply:

(1) The board of school directors shall impose the earned income and net profits tax required under section 331 on residents of the school district.

(2) The tax under paragraph (1) shall take effect beginning on the first day of the fiscal year in which the school district receives a payment under section 505(b).

(e) Municipal election of 2007.—In accordance with subsections (b) and (c)(1), a board of school directors shall propose a referendum question at the municipal election of 2007. If a board of school directors fails to propose a referendum question at the municipal election of 2007, the school district shall be ineligible to receive a property tax reduction allocation under section 505 until a referendum question pursuant to subsection (c)(1) is proposed in a subsequent general or municipal election.

(f) Public referendum requirements to end participation under this chapter.—Subject to the notice and public hearing requirements in section 4 of the Local Tax Enabling Act and after a period of at least four full fiscal years of any tax authorized under section 321 being levied, a board of school directors may seek to end participation under this chapter by obtaining the approval of the electors of the school district in a public referendum at a municipal election.

(g) Effect on certain school districts.—

This section shall not apply to:

(1) A school district of the first class.

(2) A school district which reaches the maximum homestead exclusion allowed under 53 Pa.C.S. § 8586 when combining the tax imposed under section 331, the property tax reduction allocation received under section 505, funds received under section 324(b) and any funds currently collected for the purpose of providing homestead exclusions.

(3) A school district that reaches 50% of the maximum homestead exclusion allowed under 53 Pa.C.S. § 8586 when combining the tax imposed under section 331, the property tax reduction allocation received under section 505, funds received under section 324(b) and any funds currently collected for the purpose of providing homestead exclusions. Nothing in this paragraph shall prohibit a school district from seeking voter approval to provide further homestead and farmstead exclusions should it elect to do so under subsection (b).

(h) School districts operating under 53 Pa.C.S. Ch. 87.—

(1) A school district which is subject to 53 Pa.C.S. Ch. 87 (relating to other subjects of taxation) may adopt the provisions of this chapter pursuant to this subsection.

(2) A school district which currently levies an earned income and net profits tax under 53 Pa.C.S. § 8703 (relating to adoption of referendum) shall, by resolution, comply with section 331 in order to establish eligibility to receive a property tax reduction allocation under Chapter 5.

(3) A school district under this subsection shall convert its earned income and net profits tax authorized under 53 Pa.C.S. § 8703 to an earned income and net profits tax authorized under this subsection at the same rate as the tax was levied under 53 Pa.C.S. § 8703 on the date of conversion. The tax authorized under this subsection shall be subject to the provisions of sections 323, 324, 325 and 326.

(4) A school district under this subsection shall combine all revenue generated for funding homestead and farmstead exclusions under 53 Pa.C.S. § 8703 with any revenue collected for the purposes of funding homestead and farmstead exclusions under this chapter.

(5) Unless subsection (g)(3) applies, a school district under this subsection shall be required to place a referendum question on the ballot pursuant to subsection (e). When calculating the proposed rate of earned income and net profits tax or personal income tax pursuant to subsection (c), the school district shall include any revenue collected for the purposes of homestead and farmstead exclusions.

(6) A school district taking action under paragraph (2) shall no longer implement any provisions of 53 Pa.C.S. Ch. 87.

(i) Election code provisions.—Proceedings under this section shall be in accordance with the provisions of the Pennsylvania Election Code.

Section 333. Public referendum requirements for increasing certain taxes.

(a) Applicability.—

(1) This section shall apply to a board of school directors of a school district that has taken action under section 331.

(2) For school districts under paragraph (1), this section shall apply to fiscal years beginning with the 2006-2007 fiscal year.

(b) Prohibitions.—Except as set forth in subsection (f), unless there is compliance with subsection (c), a board of school directors may not do any of the following:

(1) Increase the rate of a tax levied for the support of the public schools by more than the index. For purposes of compliance with this paragraph, a school district which is situated in more than one county and which levies real estate taxes under section 672.1 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall apply the index to each separate rate of real estate taxes levied.

(2) Levy a tax for the support of the public schools which was not levied in the fiscal year in which a tax under section 321 was imposed.

(3) Raise the rate of the earned income and net profits tax if already imposed under the authority of the Local Tax Enabling Act, except as otherwise provided for under section 332.

(4) Notwithstanding any other provision of this chapter to the contrary, the adoption of a referendum under section 332 confers on the board of school directors the authority to raise income taxes only to the extent contained in the language of the referendum, and any future increase of an income tax to be used for the purpose of property tax reduction shall be

submitted to the electors of the school district at a subsequent municipal election pursuant to the provisions of section 332(c)(2).

(c) Referendum.—

(1) In order to take an action prohibited under subsection (b)(1), at the election immediately preceding the start of the school district fiscal year in which the proposed tax increase would take effect, a referendum stating the specific rate or rates of the tax increase must be submitted to the electors of the school district, and a majority of the electors voting on the question must approve the increase.

(2) In order to take an action under subsection (b)(2), at the election immediately preceding the start of the school district fiscal year in which the proposed tax would take effect, a referendum stating the proposed tax and the rate at which it will be levied must be submitted to the electors of the school district, and a majority of the electors voting on the question must approve the tax.

(3) Except as set forth in subsections (i) and (j), a school district acting pursuant to this subsection shall submit the referendum question required under this section to the election officials of each county in which it is situate no later than 60 days prior to the election immediately preceding the fiscal year in which the tax increase would take effect.

(4) The election officials of each county shall, in consultation with the board of school directors, draft a nonlegal interpretative statement which shall accompany the referendum question in accordance with section 201.1 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code. The nonlegal interpretative statement shall include information that references the items of expenditure for which the tax increase is sought and the consequence of the referendum being disapproved by the electorate.

(d) Failure to approve referendum.—

(1) If a referendum question submitted under subsection (c)(1) is not approved, the board of school directors may approve an increase in the tax rate of not more than the index.

(2) If a referendum question submitted under subsection (c)(2) is not approved, the board of school directors may not levy the tax.

(e) Tax rate submissions.—A school district that has adopted a preliminary budget proposal under section 311 that includes an increase in the rate of any tax levied for the support of public schools shall submit information on the increase to the department on a uniform form prepared by the department. The school district shall submit such information no later than 85 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year. The department shall compare the proposed percentage increase in the rate of any tax with the index. Within ten days of the receipt of the information required under this subsection but no later than 75 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year, the department shall inform



the school district whether the proposed tax rate increase is less than or equal to the index. If the department determines that the proposed percentage increase in the rate of the tax exceeds the index, the department shall notify the school district that:

(1) the proposed tax increase must be reduced to an amount less than or equal to the index;

(2) the proposed tax increase must be approved by the electorate under subsection (c)(1); or

(3) an exception must be sought under subsection (f).

(f) Referendum exceptions.—A school district may, without seeking voter approval under subsection (c), increase the rate of a tax levied for the support of the public schools by more than the index if all of the following apply:

(1) The revenue raised by the allowable increase under the index is insufficient to balance the proposed budget due to one or more of the expenditures listed in paragraph (2).

(2) The revenue generated by increasing the rate of a tax by more than the index will be used to pay for any of the following:

(i) Costs incurred in responding to or recovering from an emergency or disaster declared pursuant to 35 Pa.C.S. § 7301 (relating to general authority of Governor) or 75 Pa.C.S. § 6108 (relating to power of Governor during emergency).

(ii) Costs to implement a court order or an administrative order from a Federal or State agency as long as the tax increase is rescinded following fulfillment of the court order or administrative order.

(iii) Costs associated with the following:

(A) To pay interest and principal on any indebtedness incurred under 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing) prior to the effective date of this section. In no case may the school district incur additional debt under this clause except for the refinancing of expenses related to such refinancing and the establishment of funding of appropriate debt service reserves. An increase under this clause shall be rescinded following the final payment of interest and principal.

(B) To pay interest and principal on any electoral debt incurred under 53 Pa.C.S. Pt. VII Subpt. B.

(C) To pay interest and principal on indebtedness for up to 60% of the construction cost average on a square-foot basis if all of the following apply:

(I) The indebtedness is for a school construction project under 22 Pa. Code Ch. 21 (relating to school buildings).

(II) The indebtedness to fund appropriate debt service reserves for the project is incurred after the effective date of this section.

(III) The increase sought under this clause is rescinded following final payment of interest and principal.

(IV) The indebtedness is incurred only after existing fund balances for school construction and any undesignated fund balances have been fully committed to fund the project.

(V) The indebtedness is for an academic elementary or academic secondary school building. For purposes of this subclause, the following shall not be considered to be an academic elementary or academic secondary school building: natatorium, stadium bleachers, athletic field, athletic field lighting equipment and apparatus used to promote and conduct interscholastic athletics.

(VI) The project has been approved by the department under section 731 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(D) To pay interest and principal on indebtedness for up to \$250,000 of the construction cost of a nonacademic school construction project, as adjusted annually by the percentage increase in the average of the Statewide average weekly wage and the employment cost index.

(iv) Costs to respond to conditions which pose an immediate threat of serious physical harm or injury to the students, staff or residents of the school district, but only until the conditions causing the threat have been fully resolved.

(v) Costs incurred in providing special education programs and services to students with disabilities if the increase in expenditures on special education programs and services was greater than 10%. The dollar amount of this exception shall be equal to the portion of the increase that exceeds 10%.

(vi) Costs which:

(A) were incurred in the implementation of a school improvement plan required under section 1116(b) of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 20 U.S.C. § 6316(b)); and

(B) were not offset by a State allocation.

(vii) Costs necessary to maintain:

(A) per-student local tax revenue, adjusted by the index, if the percentage growth in average daily membership between the school year determined under subsection (j)(4) and the third school year preceding the school year determined under subsection (j)(4) exceeds 7.5%; or

(B) actual instruction expense per average daily membership, adjusted by the index, if the increase in actual instruction expense per average daily membership between the school year determined

under subsection (j)(4) and the school year preceding the school year determined under subsection (j)(4) is less than the index.

(viii) The maintenance of revenues derived from real property taxes, earned income and net profits taxes, personal income taxes, basic education funding allocations and special education funding allocations, adjusted by the index, for a school district where the percentage increase in revenues derived from real property taxes, earned income and net profits taxes, personal income taxes, basic education funding allocations and special education funding allocations between the school year determined under subsection (j)(4) and the school year preceding the school year determined under subsection (j)(4) is less than the index.

(ix) Costs incurred for providing health care-related benefits which are directly attributable to a collective bargaining agreement in effect on the effective date of this section between the school district and its employees' organization if the anticipated increase in the cost of health care-related benefits between the current year and the upcoming year is greater than the index. The dollar amount of this exception shall be equal to the portion of the increase which exceeds the index. This subparagraph shall not apply to a collective bargaining agreement renewed, extended or entered into after the effective date of this section.

(g) Revenue derived from increase.—Any revenue derived from an increase in the rate of any tax allowed pursuant to subsection (f)(2)(iii) shall not exceed the anticipated dollar amount of the expenditure.

(h) Limitation on tax rate.—The increase in the rate of any tax allowed pursuant to an exception under subsection (f)(2)(i), (ii), (iv), (v), (vi), (vii), (viii) or (ix) or (n) shall not exceed the rate increase required as determined by a court of common pleas or the department pursuant to subsection (i) or (j).

(i) Court action.—

(1) Prior to the imposition of a tax increase under subsection (f)(2)(i), (ii) and (iv) and no later than 75 days prior to the election immediately preceding the beginning of the school district's fiscal year, approval by the court of common pleas in the judicial district in which the administrative office of the school district is located must be sought. The board of school directors shall publish in a newspaper of general circulation and on the district's publicly accessible World Wide Web site, if one is maintained, notice of its intent to file a petition under this subsection at least one week prior to the filing of the petition. The board of school directors shall also publish in a newspaper of general circulation and on the district's publicly accessible World Wide Web site, if one is maintained, notice, as soon as possible following notification from the court that a hearing has been scheduled, stating the date, time and place of

the hearing on the petition. The following shall apply to any proceedings instituted under this subsection:

(i) The school district must prove by clear and convincing evidence that it qualifies for each exception sought.

(ii) The school district must prove by clear and convincing evidence the anticipated dollar amount of the expenditure for each exception sought.

(2) The court shall rule on the school district's petition and inform the school district of its decision no later than 55 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year. If the court approves the petition, the court shall also determine the dollar amount of the expenditure for which an exception is granted, the tax rate increase required to fund the exception and the appropriate duration of the increase. If the court denies the petition, the school district may submit a referendum question under subsection (c)(1). The question must be submitted to the election officials no later than 50 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year.

(j) Department approval.—

(1) A school district that seeks to increase the rate of tax due to an expenditure under subsection (f)(2)(iii), (v), (vi), (vii), (viii) or (ix) or (n) shall obtain the approval of the department before imposing the tax increase. The department shall establish procedures for administering the provisions of this subsection, which may include an administrative hearing on the school district's submission.

(2) A school district proceeding under the provisions of this subsection shall publish in a newspaper of general circulation and on the district's publicly accessible World Wide Web site, if one is maintained, notice of its intent to seek department approval at least one week prior to submitting its request for approval to the department. If the department schedules a hearing on the school district's request, the school district shall publish notice of the hearing in a newspaper of general circulation and on the district's publicly accessible World Wide Web site, if one is maintained, immediately upon receiving the information from the department. The notice shall include the date, time and place of the hearing.

(3) The department shall approve a school district's request under this subsection if a review of the data under paragraph (4) demonstrates that:

(i) the school district qualifies for one or more exceptions under subsection (f)(2)(iii), (v), (vi), (vii), (viii) or (ix) or (n); and

(ii) the sum of the dollar amounts of the exceptions for which the school district qualifies makes the school district eligible under subsection (f)(1).

(4) For the purpose of determining the eligibility of a school district for an exception under subsection (f)(2)(v), (vi), (vii) or (viii), the

department shall utilize data from the most recent school years for which annual financial report data required under section 2553 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, has been received for all school districts. The department shall inform school districts of the school years determined under this subsection no later than 30 days prior to the date on which public inspection of proposed school budgets is required under section 311(c).

(5) The department shall rule on the school district's request and shall inform the school district of its decision no later than 55 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year. If the department approves the request, the department shall determine the dollar amount of the expenditure for which the exception is sought and the tax rate increase required to fund the exception. If the department denies the request, the school district may submit a referendum question under subsection (c)(1). The question must be submitted to the election officials no later than 50 days prior to the date of the election immediately preceding the beginning of the school district's fiscal year.

(6) Within 30 days of the deadline under paragraph (5), the department shall submit a report to the President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives enumerating the school districts which sought an exception under this subsection. The department shall also publish the report on its publicly accessible World Wide Web site. The report shall include:

- (i) The name of each school district making a request under this subsection.
- (ii) The specific exceptions requested by each school district and the dollar amount of the expenditure for each exception.
- (iii) The department's ruling on the request for the exception.
- (iv) If the exception was approved, the dollar amount of the expenditure for which the exception was sought and the tax rate increase required to fund the exception.
- (v) A statistical summary of the information in subparagraphs (ii), (iii) and (iv).

(k) **Objections.**—Any person that resides within or pays real property taxes to the school district filing a petition under subsection (i) may file with the court written objections to any petition filed under this section.

(l) **Index calculation.**—No later than August 15, 2005, and each August 15 thereafter, the department shall calculate the index. The department shall publish the index by September 1, 2005, and each September 1 thereafter in the Pennsylvania Bulletin.

(m) **Election interference prohibited.**—

(1) No public funds may be used to urge any elector to vote for or against a referendum or be appropriated for political or campaign purposes.

(2) This subsection shall not prohibit the use of public funds for dissemination of factual information relative to a referendum appearing on an election ballot.

(3) As used in this subsection, the term "public funds" means any funds appropriated by the General Assembly or by a political subdivision.

(n) Treatment of certain required payments.—The provisions of subsections (f) and (j) shall apply to a school district's share of payments to the Public School Employees' Retirement System as required under 24 Pa.C.S. § 8327 (relating to payments by employers) if the actual dollar amount of payments between the current year and the upcoming year is greater than 7.5%. The dollar amount to which subsection (f) applies shall equal that portion of the increase which exceeds 7.5% of the actual dollar value of payments between the current year and the upcoming year.

Section 334. Disposition of income tax revenue and property tax reduction allocations.

(a) Earned income and net profits tax revenue.—All earned income and net profits tax revenue received by the school district pursuant to this chapter shall be used as follows:

(1) In the fiscal year that the tax under section 321(b)(1) is implemented, all revenue received by a school district that is directly attributable to that tax shall be used to fund exclusions for homestead and farmstead property.

(2) In the second fiscal year and each fiscal year thereafter, the revenue received by the school district shall be used to maintain the amount established in paragraph (1). All remaining revenue may be used for the operations of the school district.

(3) Except as set forth in section 321(b)(4), in the fiscal year that a tax under section 321(b)(2) is implemented or increased, all revenue received by a school district that is directly attributable to that tax shall be used to fund exclusions for homestead and farmstead property.

(4) In the second fiscal year and each fiscal year thereafter, the revenue received by the school district shall be used to maintain the amount established in paragraph (3). All remaining revenue may be used for the operations of the school district.

(b) Personal income tax revenue.—All personal income tax revenue received by the school district pursuant to this chapter shall be used as follows:

(1) Except as set forth in section 321(c)(6), in the fiscal year that the tax under section 321(c) is implemented or increased, all revenue received by the school district pursuant to section 321(c)(2)(ii) and (iii) shall be used to fund exclusions for homestead and farmstead property.

(2) In the second fiscal year and each fiscal year thereafter, all revenue received by the school district pursuant to section 321(c)(2)(ii) and (iii) shall be used to maintain the amount established in paragraph (1). All remaining revenue may be used for the operations of the school district.

#### SUBCHAPTER E HOMESTEAD EXCLUSION

Section 341. Homestead and farmstead applications.

(a) Initial notification and application.—Within 45 days of the effective date of this section, a board of school directors shall notify by first class mail the owner of each parcel of residential property within the district that the owner must submit a completed application in accordance with 53 Pa.C.S. § 8584(a) (relating to administration and procedure). The board shall provide a second notice by first class mail no later than 60 days prior to the application deadline in subsection (c). Each notice shall include an application to be filed with the assessor of the county where the property is located, instructions for completing the application and the deadline to apply. A school district may limit the second notice to those owners of residential property that have not responded to the initial notification.

(b) Annual notification.—No later than 60 days prior to the application deadline in subsection (c), a board of school directors shall notify by first class mail the owner of each parcel of residential property within the district of the existence of the school district's homestead and farmstead exclusion program, the need to file an application in accordance with 53 Pa.C.S. § 8584(a) in order to qualify for the program and the application deadline. The annual notice shall include all information required under subsection (a). A school district may limit the annual notification to those owners of residential property:

- (1) who are not currently approved; or
- (2) whose approval is due to expire.

(c) Application deadline.—In accordance with 53 Pa.C.S. § 8584(b), the deadline for filing an application with the assessor shall be March 1.

(d) Action on application.—Real property for which an application has been filed by the application deadline shall be deemed to be a homestead or farmstead property which is eligible for a homestead or farmstead exclusion unless the assessor denies the application. Denials of application by the assessor and the right to appeal that decision shall be in accordance with 53 Pa.C.S. § 8584(d) and (e).

(e) Application review and submission.—Except as set forth in 53 Pa.C.S. § 8584(j), an assessor shall not require the owner of a previously approved property to resubmit an application more than one time every three years.

(f) Applicability.—The provisions of 53 Pa.C.S. § 8584(f), (g), (h) and (j) shall apply to any application filed under this section.

(g) Duties of assessors.—

(1) The assessor shall mail to the owner of property for which an application has been submitted and approved or denied under this section notice of such fact no later than 30 days after receipt of the application.

(2) The assessor shall notify the owner of any homestead or farmstead property designated as such under any other statute of the need, if any, to resubmit an application to maintain the property's eligibility as a homestead or farmstead property. Nothing in this paragraph shall prohibit a county assessor from designating property previously determined to be homestead property under any other statute as homestead or farmstead property for purposes of this section.

(3) The assessor shall provide each school district with a certified report, as provided in 53 Pa.C.S. § 8584(i), no later than May 1.

(h) Uniform application and instructions.—The application to designate property as homestead or farmstead property shall be uniform and shall include instructions for completing the application. The Department of Community and Economic Development shall develop the uniform application and instructions to be used by county assessors and shall publish the uniform application and instructions no later than 15 days after the effective date of this chapter.

(i) Prohibitions.—A county shall not require an application fee for the filing or review of an application submitted under this section or under 53 Pa.C.S. § 8584(a).

#### Section 342. Homestead and farmstead exclusion process.

(a) Homestead and farmstead exclusions.—Each fiscal year in which a school district imposes an income tax authorized under section 321 and receives a property tax reduction allocation pursuant to Chapter 5, the district shall calculate a homestead and farmstead exclusion for the purpose of reducing school district property taxes. The school district shall adopt a resolution implementing the homestead and farmstead exclusion no later than the last day of the fiscal year immediately preceding the fiscal year in which the homestead and farmstead exclusions shall take effect.

(b) Excess funding.—A school district which collects or anticipates collecting revenue from any source for the purposes of providing homestead and farmstead exclusions, in an amount greater than necessary to provide for homestead exclusions equal to the maximum authorized under 53 Pa.C.S. § 8586 (relating to limitations), shall use such excess revenue to reduce the rate of its earned income and net profits tax or its personal income tax to a level that returns to those taxpayers all excess funds.

(c) Reduction in funding.—In any year subsequent to a year in which an income tax rate was reduced pursuant to subsection (b), if the revenue collected or anticipated to be collected under this chapter and Chapter 5 falls below the amount necessary to maintain the maximum homestead property tax exclusion, the school district may raise the rate of the income tax levied up to the amount previously reduced under subsection (b) without complying with the referendum provisions of section 332.



**Section 343. School district tax notices.**

(a) Tax notice.—School districts which implement homestead and farmstead exclusions shall itemize the homestead and farmstead exclusion on tax bills sent to homestead and farmstead owners, indicating the original amount of tax liability, the amount of the exclusion and the net amount of tax due after the exclusion is applied. The tax bill shall be easily understandable and include a notice pursuant to subsection (b).

(b) Notice of property tax relief.—School districts which implement homestead and farmstead exclusions shall include with the homestead or farmstead owner's tax bill a notice that the tax bill includes a homestead or farmstead exclusion. The notice shall at a minimum take the following form:

**NOTICE OF PROPERTY TAX RELIEF**

Your enclosed tax bill includes a tax reduction for your homestead and/or farmstead property. As an eligible homestead and/or farmstead property owner, you have received tax relief through a homestead and/or farmstead exclusion which has been provided under the Homeowner Tax Relief Act, a law passed by the Pennsylvania General Assembly designed to reduce your property taxes.

**SUBCHAPTER F  
REGISTER****Section 351. Register for taxes.**

(a) General rule.—The Department of Community and Economic Development shall maintain a continuing register updated annually of all earned income and net profits taxes or personal income taxes levied under Subchapter C.

(b) Contents of register.—The register shall list:

- (1) The school districts levying the tax.
- (2) The rate of tax levied under this chapter.
- (3) The total tax rate on taxpayers.
- (4) The name and address of the official responsible for administering the collection of the tax and from whom information, forms and copies of regulations are available.

**Section 352. Information for register.**

Information for the register shall be furnished by the school district to the Department of Community and Economic Development as prescribed by the Department of Community and Economic Development. The information must be received by the Department of Community and Economic Development no later than July 15 of each year to show new tax enactments, repeals and changes. Failure to comply with the filing date may result in the omission of the tax levy from the register for that year. Failure to receive information of taxes continued without change may be construed by the Department of Community and Economic Development to mean that the information contained in the previous register remains in force.

**Section 353. Availability and effective period of register.**

The register, with such annual supplements as may be required by new tax enactments, repeals or changes, shall be available upon request no later than August 15 of each year. The effective period for each register shall be from July 1 of the year in which it is issued to June 30 of the following year.

**Section 354. Effect of nonfiling.**

Employers shall not be required by any ordinance to withhold from the compensation of their employees any local earned income and net profits tax or personal income tax imposed under Subchapter C which is not listed in the register or to make reports of compensation in connection with taxes not so listed. If the register is not available by August 15, the register of the previous year shall continue to be effective for an additional period of not more than one year.

**Section 355. Effect of subchapter on liability of taxpayer.**

The provisions of this subchapter shall not be construed to affect the liability of any taxpayer for taxes lawfully imposed under Subchapters C and D.

## CHAPTER 5 STATE FUNDS FORMULA

**Section 501. Scope.**

This chapter relates to the State funds formula.

**Section 502. Definitions.**

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

“Allocation maximum.” A numerical value of 0.4 plus the modifier calculated under section 503(c)(2). The value, including the maximum modifier, shall not exceed 0.6.

“Allocation minimum.” A numerical value of 0.1 plus the modifier calculated under section 503(c)(1). The value, including the minimum modifier, shall not exceed 0.15.

“Department.” The Department of Education of the Commonwealth.

“Fund.” As defined in section 302.

“Income tax.” A tax on earned income and net profits or a tax on personal income pursuant to Chapter 3.

“Property tax reduction index.” A quotient equal to the sum of the numerical rank of a school district’s personal income valuation per average daily membership, the numerical rank of its market value/income aid ratio, the numerical rank of its equalized millage and the numerical rank of its school tax ratio, divided by 1,000.

“Qualifying contribution.” The revenue estimated to be collected from the imposition of the tax authorized under section 321(b)(1) in the first fiscal year that the tax is implemented.

“Residential property tax.” The dollar value of real property taxes paid by residential property owners in a school district, determined by multiplying

the real property taxes collected by the school district times the percentage of the total property value in the school district classified as residential by the State Tax Equalization Board.

“School tax ratio.” The dollar value of local taxes collected by the school district or by a city of the first class for a school district of the first class divided by the personal income valuation of the school district.

Section 503. Certification; calculation of minimum and maximum modifiers.

(a) Secretary of the Budget certification.—

(1) No later than April 15, 2005, and April 15 of each year thereafter, the Secretary of the Budget shall certify all of the following:

(i) The total amount of revenue in the fund. In calculating the total amount of revenue in the fund, the secretary shall take into account all of the following:

(A) For the certification to be completed no later than April 15, 2005, revenue which:

(I) has been deposited into the fund prior to the date of the certification;

(II) is reasonably projected to be deposited into the fund during the six months following the date on which the certification is made; and

(III) has been appropriated under section 5002.

(B) For certifications in subsequent fiscal years:

(I) revenue which has been deposited into the fund during the six months prior to the date on which the certification is made; and

(II) revenue enumerated in clause (A)(II).

(ii) The total amount of revenue in the Property Tax Relief Reserve Fund established under section 504.

(iii) In certifying the amount available for distribution under subsection (e), the secretary shall only certify an amount that is sustainable in subsequent years.

(2) If the actual revenue deposited into the fund during the six months following the date on which the certification is made exceeds projections, any revenue in excess of projections shall remain in the fund and may be included in the certification for the subsequent fiscal year.

(b) School district certification.—

(1) By December 15, 2004, each school district shall certify to the department the estimated amount of its qualifying contribution. The certification shall be based upon the previous year's earned income and net profits tax revenues and cash flow experience. A school district which does not impose an earned income and net profits tax prior to the implementation of this chapter shall estimate the amount of its qualifying contribution based upon the most recent financial data forwarded to the department by the Department of Revenue. The department shall provide the data to the school district no later than December 1, 2004. Following

receipt of the school district certifications, the department shall provide the certifications to the Secretary of the Budget no later than January 15.

(2) By December 15, 2004, and December 15 of each year thereafter, each school district subject to section 324 shall certify to the department the total amount of tax credits under section 324(2).

(c) Allocation modifiers.—The secretary shall calculate modifiers for the allocation maximum and the allocation minimum based on the amount certified under subsection (a)(1)(i).

(1) If the amount certified by the secretary for a fiscal year exceeds \$750,000,000, the minimum modifier for the allocation minimum shall be a value of .005 per \$50,000,000 in excess of \$750,000,000. The modifier for the allocation minimum shall not exceed 0.05.

(2) If the amount certified by the secretary for a fiscal year exceeds \$750,000,000, the minimum modifier for the allocation maximum shall be a value of .02 per \$50,000,000 in excess of \$750,000,000. The modifier for the allocation maximum shall not exceed 0.2.

(d) Notification.—

(1) By April 20, 2005, and April 20 each year thereafter, the secretary shall notify the department whether it is authorized to provide eligible school districts with property tax reduction allocations under section 505.

(2) The secretary shall not authorize the department to provide the first property tax reduction allocations until:

(i) the certification under subsection (a)(1)(ii) is no less than \$400,000,000; and

(ii) the certification under subsection (a)(1)(i) is equal to or greater than \$500,000,000.

(3) Subsequent property tax reduction allocations shall only be authorized when the balance required under section 504(c)(1) is no less than \$400,000,000.

(e) Distribution.—In calculating the revenue available for distribution, the secretary shall, from the total amount certified under subsection (a)(1)(i), deduct all of the following:

(1) An amount sufficient to fund reimbursements to eligible school districts pursuant to section 324. The amount deducted pursuant to this paragraph shall be calculated based on the information provided by school districts pursuant to subsection (b)(2).

(2) An amount sufficient to fund the program under section 704.

Section 504. Property Tax Relief Reserve Fund.

(a) Fund established.—There is established in the State Treasury a restricted receipts account to be known as the Property Tax Relief Reserve Fund.

(b) Receipts.—The secretary is authorized to transfer funds from the fund into the Property Tax Relief Reserve Fund necessary to comply with the requirements of subsection (c).

(c) Balance.—

(1) The secretary shall ensure that no less than \$400,000,000 exists in the Property Tax Relief Reserve Fund prior to making a certification under section 503(a)(1).

(2) If a distribution was made under subsection (d) in the prior year, the secretary shall deposit funds necessary to ensure that \$400,000,000 is available in the Property Tax Relief Reserve Fund prior to making certification under section 503(a)(1).

(d) Transfers.—

(1) The secretary may authorize a transfer from the Property Tax Relief Reserve Fund to the fund if the certification under section 503(a)(1)(i) is less than the certification under section 503(a)(1)(i) made in the prior year. The amount of the distribution under this subsection shall be equal to the difference between the certification under section 503(a)(1)(i) and the certification under section 503(a)(1)(i) made in the prior year.

(2) The secretary shall transfer any interest that has accrued from the revenue in the Property Tax Relief Reserve Fund to the fund on an annual basis.

(e) Nonlapse.—The money in the Property Tax Relief Reserve Fund is continuously appropriated to the Property Tax Relief Reserve Fund and shall not lapse at the end of any fiscal year.

Section 505. State property tax reduction allocation.

(a) Administration.—The department shall do all of the following:

(1) Array the 2002 personal income valuation divided by the 2003-2004 average daily membership, the 2004-2005 market value/income aid ratio, the 2002-2003 equalized millage and the 2002-2003 school tax ratio of each school district in rank order and assign each school district a discreet numerical rank for its personal income valuation per average daily membership, its market value/income aid ratio, its equalized millage and its school tax ratio. For the numerical rank of a school district's personal income valuation per average daily membership, the school district with the lowest personal income valuation per average daily membership shall have the highest numerical rank. For the numerical rank of a school district's market value/income aid ratio, the school district with the highest market value/income aid ratio shall have the highest numerical rank, provided that all school districts with a market value/income aid ratio equal to 0.15 shall receive a ranking of 1. For the numerical rank of a school district's equalized millage, the school district with the highest equalized millage shall have the highest numerical rank. For the numerical rank of a school district's school tax ratio, the school district with the highest school tax ratio shall have the highest numerical rank.

(2) Assign each school district a property tax reduction index.

(3) If the department receives authorization under section 503(d), allocate the property tax reduction for each school district as follows:

(i) Calculate the property tax reduction allocation as follows:

(A) Multiply the school district's 2003-2004 average daily membership by the school district's property tax reduction index.

(B) Multiply the product under clause (A) by the dollar amount necessary to allocate all of the money in the fund as certified under section 503(a)(1)(i). If the certification under section 503(a)(1)(i) is less than \$750,000,000, the dollar amount shall be the dollar amount necessary to allocate \$750,000,000.

(C) If applicable, provide for the allocation minimum or allocation maximum under subparagraph (ii) or (iii).

(ii) If the sum of the allocation under this paragraph and the qualifying contribution certified under section 503(b) on January 15, 2005, is less than the product of the residential property taxes collected during the 2001-2002 fiscal year and the allocation minimum for a school district, the school district shall receive an additional amount so that the sum of the total allocation under this paragraph and the qualifying contribution certified under section 503(b) on January 15, 2005, is equal to the product of the residential property taxes collected during the 2001-2002 fiscal year and the allocation minimum.

(iii) Except as set forth in subsection (c), if the sum of the total allocation under this paragraph and the qualifying contribution certified under section 503(b) on January 15, 2005, is greater than the product of the residential property taxes collected during the 2001-2002 fiscal year and the allocation maximum for a school district, the school district shall receive a total allocation such that the sum of the total allocation and the qualifying contribution certified under section 503(b) on January 15, 2005, is equal to the product of the residential property taxes collected during the 2001-2002 fiscal year and the allocation maximum.

(iv) If the certification under section 503(a)(1)(i) is less than \$750,000,000, each school district shall receive a pro rata share of the property tax reduction allocation calculated under this paragraph at \$750,000,000.

(4) Notify each school district of the amount of its property tax reduction allocation no later than May 1, 2005, and May 1 of each year thereafter.

(b) Payment.—For the fiscal year commencing July 1, 2005, and July 1 of each fiscal year thereafter, except as set forth in subsection (c), the department shall pay to each eligible school district a property tax reduction allocation equal to the amount calculated under subsection (a)(3). The property tax reduction allocation shall be divided into two equal payments, which shall be made on the fourth Thursday of August and the fourth Thursday of October.

(c) First class school districts.—The property tax reduction allocation for a school district of the first class shall be paid by the department to a city of

the first class. The limitations set forth in subsection (a)(3)(iii) shall not apply to the calculation of the property tax reduction allocation for a school district of the first class.

(d) Reduction of wage taxes in a city of the first class.—A city council of a city of the first class shall reduce any tax imposed on the wages of residents and nonresidents under the authority of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, in a manner consistent with Chapter 7 and in accordance with the following:

(1) For residents, by an amount equal to the amount of the property tax reduction allocation received from the Commonwealth pursuant to subsection (b) in an amount not to exceed the limitations set forth in subsection (a)(3)(iii) had such limitations applied.

(2) For nonresidents, by any amount equal to the amount of the property tax reduction allocation received from the Commonwealth pursuant to subsection (b) in excess of the limitations set forth in subsection (a)(3)(iii) had such limitations applied.

(3) If the certification under section 503(a)(1)(i) is less than \$750,000,000, the tax reductions under paragraphs (1) and (2) shall be a pro rata share of the property tax reduction allocation to a school district of the first class calculated under subsection (a) at \$750,000,000.

## CHAPTER 7

### TAX RELIEF IN CITIES OF THE FIRST CLASS

Section 701. Short title.

This chapter shall be known and may be cited as the Local Tax Relief Act.

Section 702. (Reserved).

Section 703. Tax relief.

(a) Tax rate reduction.—A city of the first class shall reduce the rate of wage and net profits tax on residents and nonresidents levied under the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, in order to be eligible to receive a property tax reduction allocation under Chapter 5. If the city elects to reduce taxes pursuant to this chapter, all money received from the fund shall be used to offset a reduction by the city in fiscal year 2005-2006 and each fiscal year thereafter in the rate of tax on wages and net profits for both residents and nonresidents as provided for in subsection (b). The reductions shall remain in effect for so long as a tax reduction allocation pursuant to Chapter 5 is paid to the city in an amount equal to the cost of such reductions.

(b) Calculation of reduction.—

(1) The city shall calculate the amount of the tax rate reductions so that they equal, based on estimates certified by the city's director of finance and approved by the Pennsylvania Intergovernmental Cooperation Authority prior to the implementation of the reductions, in combination with any reduction in the rate of unearned income tax imposed by a school

district in the city of the first class required by the act of August 9, 1963 (P.L.640, No.338), entitled "An act empowering cities of the first class, coterminous with school districts of the first class, to authorize the boards of public education of such school districts to impose certain additional taxes for school district purposes, and providing for the levy, assessment and collection of such taxes," as a result of the reduction in the rate of wage and net profits tax, the amount paid to the city from the fund for tax reductions. The city shall each year transfer to such school district an amount equal to the cost of any reduction in the rate of unearned income tax, and such transfer shall not be subject to the provisions of section 696(h) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) The tax rate reductions implemented by a city of the first class pursuant to this section shall be in addition to the following schedule of percentages of wage and net profits tax rate reductions:

(i) On January 1, 2005, 2.9468% for residents and 1.5567% for nonresidents.

(ii) On January 1, 2006, 0.6927% for residents and 1.2593% for nonresidents.

(iii) On January 1, 2007, 0.9533% for residents and 0.4216% for nonresidents.

(iv) On January 1, 2008, 0.9624% for residents and 0.8387% for nonresidents.

(v) On January 1, 2009, 1.1851% for residents and 1.0526% for nonresidents.

(c) Exceptions.—The wage and net profits tax rates can only be raised above the rates specified in subsection (b)(2) if all of the following apply:

(1) The increase is approved by an affirmative vote of at least ten members of a city council of a city of the first class.

(2) The Pennsylvania Intergovernmental Cooperation Authority certifies that a condition under paragraph (3) exists.

(3) The increase is necessary to respond to any of the following:

(i) A fiscal threat or condition, as certified by the city's director of finance, that occurs to the city as set forth in section 333(f) or an equivalent fiscal threat that affects the citizens of the city. It shall be the responsibility of the city's director of finance with the approval of the Pennsylvania Intergovernmental Cooperation Authority to ensure that any additional tax revenue raised is equal to the amount expended to respond to the fiscal threat or condition. If the amount of revenue raised through rate adjustment exceeds the amount necessary to respond, over the course of the city's approved financial plan, to the fiscal threat, the excess amount shall be used for wage tax and net profits tax reduction in the immediately succeeding approved financial plan, but only if the tax rate reduction, expressed as the difference between the two tax rates, would exceed .0002.



(ii) A decrease of more than 2% in the amount of total tax collections plus any funds provided under this chapter from the preceding year's collections. Such a determination of a decrease must be attested to by the city's director of finance.

(iii) A declaration by the Pennsylvania Intergovernmental Cooperation Authority that the city's five-year plan is disapproved pursuant to section 209 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(iv) Federal or State law imposes a new unfunded mandate on the city that costs the city more than 1.5% of the city's total general fund expenditures in any fiscal year.

(v) The cost to the city of an existing mandate imposed by Federal or State law increases by more than 1.5% of the city's total general fund expenditures in any fiscal year and funds to pay for the increase are not appropriated to the city by the Federal or State government.

(vi) Existing Federal or State funding is decreased by 1.5% of the city's total general fund expenditures in any fiscal year.

(d) Excess funds.—If in any fiscal year the sums received by a city of the first class from the fund are in excess of the value of the tax rate reductions actually made by the city and the school district of the first class pursuant to subsection (a), the city shall, within 60 days following the certification by the director of finance, in consultation with the Secretary of the Budget and with the approval of the Pennsylvania Intergovernmental Cooperation Authority of the amount of the excess, do any of the following:

(1) repay to the fund the excess sums; or

(2) further reduce wage and net profits tax rates and unearned income tax rates, if required, in the fiscal year next following the determination of the excess, by an amount that will result in total tax rate reductions required for the amount received from the fund. To the extent the tax rate reduction provided for in this paragraph, expressed as the difference between the two tax rates, would not exceed .0002, this subsection shall not apply.

(e) Insufficient funds.—If in any fiscal year the director of finance certifies, in consultation with the Secretary of the Budget and with the approval of the Pennsylvania Intergovernmental Cooperation Authority, that the amount of sums received by the city from the fund are less than the value of the tax rate reductions actually made by the city and school district of the first class pursuant to subsection (a), the city may, in the fiscal year next following the determination of the amount, increase the city's wage and net profits tax rate above the rates specified in subsection (b)(2) by an amount that will result in an overall tax rate reduction equal to that required for the amount received by the city from the fund. To the extent the tax rate increase provided for in this subsection, expressed as the difference between the two tax rates, would not exceed .0002, this subsection shall not apply.

Section 704. Senior citizen homestead property tax reduction in cities of the first class.

(a) Eligibility.—For tax years beginning in the first year in which a payment under section 505(b)<sup>1</sup> is made and each tax year thereafter, the following apply:

(1) Except as provided in paragraph (2), any resident of a city of the first class who is eligible to receive a property tax rebate pursuant to the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, shall be eligible to receive an additional property tax rebate equal to 50% of the amount the individual is eligible to receive under the Senior Citizens Rebate and Assistance Act.

(2) An additional rebate under paragraph (1) may not exceed the difference between the property tax paid by the eligible resident and the rebate received by the eligible resident under the Senior Citizens Rebate and Assistance Act for the same tax year.

(b) Transfer authorized.—By June 30 of the year in which a payment under section 505(b)<sup>1</sup> will be made, the State Treasurer shall transfer from the fund an amount sufficient to fund the property tax rebates authorized under subsection (a) to the State Lottery Fund. All revenue transferred pursuant to this subsection shall be distributed in accordance with the provisions of the Senior Citizens Rebate and Assistance Act.

(c) Prohibition.—This section shall not apply to a resident of a city of the first class who is entitled to receive rent rebate in lieu of property taxes under the Senior Citizens Rebate and Assistance Act.

## CHAPTER 50 MISCELLANEOUS PROVISIONS

Section 5001. Other subjects of taxation.

No school district which has not already made an election to adopt the provisions of 53 Pa.C.S. Ch. 87 (relating to other subjects of taxation) may make an election to do so after the effective date of this section.

Section 5002. Appropriation.

The sum of \$3,000,000, or as much thereof as may be necessary, is hereby appropriated from the Property Tax Relief Reserve Fund to the Department of Community and Economic Development for the purpose of making one-time transition grants to counties other than counties of the first class for costs associated with implementing the Homeowner Tax Relief Act. Grants shall be made pursuant to guidelines adopted by the department and shall be limited to funds appropriated for this purpose. The Department of Community and Economic Development shall not draw a warrant upon the State Treasurer for this appropriation until the State Treasurer certifies that the Property Tax Relief Reserve Fund has at least a \$3,000,000 balance.

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<sup>1</sup>“section 503(b)” in enrolled bill.

Section 5003. Effective date.

This act shall take effect in 60 days.

APPROVED—The 5th day of July, A.D. 2004.

EDWARD G. RENDELL