

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1642 Session of 2021

INTRODUCED BY WHITE, ROTHMAN, RYAN, KAUFFMAN, GROVE, DRISCOLL, ZIMMERMAN, THOMAS, PENNYCUICK, LEWIS, POLINCHOCK AND ROWE, JUNE 16, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 4, 2021

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in educational tax credits, further
6 providing for definitions, for qualification and application
7 by organizations, for application by business firms, for tax
8 credits, for limitations and for opportunity scholarships.

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

11 ~~Section 1. The definition of "economically disadvantaged <--
12 school" in section 2002-B of the act of March 10, 1949 (P.L.30,
13 No.14), known as the Public School Code of 1949, is amended and
14 the section is amended by adding definitions to read:~~

15 SECTION 1. THE DEFINITIONS OF "ECONOMICALLY DISADVANTAGED <--
16 SCHOOL" AND "HOUSEHOLD INCOME" IN SECTION 2002-B OF THE ACT OF
17 MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE
18 OF 1949, ARE AMENDED AND THE SECTION IS AMENDED BY ADDING
19 DEFINITIONS TO READ:

20 Section 2002-B. Definitions.

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

4 * * *

5 "Economically disadvantaged school." Any school within this
6 Commonwealth at which at least [75%] 51% of the students
7 attending the school in the immediately preceding school year
8 received a scholarship OF AT LEAST \$1,000 pursuant to this <--
9 article.

10 * * *

11 "Fiscal year." The Commonwealth's fiscal year beginning July
12 1 and ending June 30.

13 * * *

14 "HOUSEHOLD INCOME." ALL MONEY OR PROPERTY RECEIVED OF <--
15 WHATEVER NATURE AND FROM WHATEVER SOURCE DERIVED. THE TERM DOES
16 NOT INCLUDE THE FOLLOWING:

17 (1) PERIODIC PAYMENTS FOR SICKNESS AND DISABILITY OTHER
18 THAN REGULAR WAGES RECEIVED DURING A PERIOD OF SICKNESS OR
19 DISABILITY.

20 (2) DISABILITY, RETIREMENT OR OTHER PAYMENTS ARISING
21 UNDER WORKERS' COMPENSATION ACTS, OCCUPATIONAL DISEASE ACTS
22 AND SIMILAR LEGISLATION BY ANY GOVERNMENT.

23 (3) PAYMENTS COMMONLY RECOGNIZED AS OLD-AGE OR
24 RETIREMENT BENEFITS PAID TO PERSONS RETIRED FROM SERVICE
25 AFTER REACHING A SPECIFIC AGE OR AFTER A STATED PERIOD OF
26 EMPLOYMENT.

27 (4) PAYMENTS COMMONLY KNOWN AS PUBLIC ASSISTANCE OR
28 UNEMPLOYMENT COMPENSATION PAYMENTS BY A GOVERNMENTAL AGENCY.

29 (5) PAYMENTS TO REIMBURSE ACTUAL EXPENSES.

30 (6) PAYMENTS MADE BY EMPLOYERS OR LABOR UNIONS FOR

1 PROGRAMS COVERING HOSPITALIZATION, SICKNESS, DISABILITY OR
2 DEATH, SUPPLEMENTAL UNEMPLOYMENT BENEFITS, STRIKE BENEFITS,
3 SOCIAL SECURITY AND RETIREMENT.

4 (7) COMPENSATION RECEIVED BY UNITED STATES SERVICEMEN
5 SERVING IN A COMBAT ZONE.

6 (8) PAYMENTS RECEIVED FROM A GOVERNMENTAL AGENCY TO
7 RELIEVE THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC.

8 * * *

9 "Taxable "TAX year." A taxpayer's annual accounting period <--
10 or, if a return is made for a period of less than 12 months, the
11 period for which the return is made.

12 Section 2. Sections 2003-B(d.3) and 2004-B(a) (2) of the act
13 are amended to read:

14 Section 2003-B. Qualification and application by organizations.

15 * * *

16 (d.3) [Opportunity scholarship] Scholarship organization for
17 economically disadvantaged schools.--

18 (1) [In] Effective July 1, 2020 2022, in addition to the <--
19 other requirements of this article, [an opportunity] a
20 scholarship organization that intends to provide
21 [opportunity] scholarship awards to applicants of
22 economically disadvantaged schools must demonstrate a history
23 of serving schools throughout this Commonwealth and the
24 capacity to distribute [opportunity] scholarships Statewide
25 to applicants of economically disadvantaged schools.

26 (2) [An opportunity] A scholarship organization must
27 agree to distribute [opportunity] scholarships to applicants
28 of economically disadvantaged schools not later than
29 [December] February 1 of the applicable school year.

30 (3) Notwithstanding any other provision of this article

1 to the contrary, the department may not for any school year
2 qualify more than one [opportunity] scholarship organization
3 for the provision of [opportunity] scholarships to applicants
4 of economically disadvantaged schools.

5 * * *

6 Section 2004-B. Application by business firms.

7 (a) Scholarship organization, pre-kindergarten scholarship
8 organization or opportunity scholarship organization.--

9 * * *

10 (2) A business firm that intends to apply to the
11 department for a tax credit for contributions [to the
12 opportunity scholarship organization that qualifies under
13 section 2003-B(d.3)] for students attending an economically
14 disadvantaged school must submit an application separate from
15 an application for tax credits to [a] ANOTHER scholarship <--
16 organization, pre-kindergarten scholarship organization or
17 [other] opportunity scholarship organization. The
18 contribution shall be made to the designated scholarship
19 organization for the economically disadvantaged schools and
20 shall be separately accounted for and distributed by the
21 designated scholarship organization.

22 * * *

23 ~~Section 3. Section 2005 B(b), (c) (2), (d), (i) (5) and (j) (1) <--~~
24 ~~and (2) of the act are amended and subsection (i) is amended by~~
25 ~~adding a paragraph to read:~~

26 SECTION 3. SECTION 2005-B(I) (5) AND (J) (1) AND (2) OF THE <--
27 ACT ARE AMENDED AND SUBSECTION (I) IS AMENDED BY ADDING A
28 PARAGRAPH TO READ:

29 Section 2005-B. Tax credits.

30 * * *

1 ~~(b) Additional amount. In accordance with section 2006 B, <--~~
2 ~~the Department of Revenue shall grant a tax credit of up to 90%~~
3 ~~of the total amount contributed during the taxable year if the~~
4 ~~business firm provides a written commitment to provide the~~
5 ~~scholarship organization, educational improvement organization~~
6 ~~or opportunity scholarship organization with the same amount of~~
7 ~~contribution for two consecutive [tax] taxable years. The~~
8 ~~business firm must provide the written commitment under this~~
9 ~~subsection to the department at the time of application.~~

10 ~~(c) Pre kindergarten scholarship organizations. In~~
11 ~~accordance with section 2006 B, the Department of Revenue shall~~
12 ~~grant a tax credit against any applicable tax to a business firm~~
13 ~~providing proof of a contribution to a pre kindergarten~~
14 ~~scholarship organization in the taxable year in which the~~
15 ~~contribution is made in accordance with the following:~~

16 ~~* * *~~

17 ~~(2) [The] For each fiscal year, the tax credit shall not~~
18 ~~exceed \$200,000 annually per business firm for contributions~~
19 ~~made to pre kindergarten scholarship organizations, except as~~
20 ~~provided in subsection (i).~~

21 ~~(d) Combination of tax credits. In accordance with section~~
22 ~~2006 B, a business firm may receive tax credits from the~~
23 ~~Department of Revenue in any [tax] fiscal year for any~~
24 ~~combination of contributions under subsection (a), (a.1), (b) or~~
25 ~~(c). Except as provided in subsection (i), in no case may a~~
26 ~~business firm receive tax credits in any [tax] fiscal year in~~
27 ~~excess of the following:~~

28 ~~(1) \$750,000 for combined contributions to scholarship~~
29 ~~and educational improvement organizations under subsections~~
30 ~~(a) and (b).~~

1 ~~(2) \$750,000 for contributions to opportunity~~
2 ~~scholarship organizations under subsections (a.1) and (b).~~

3 ~~(3) \$200,000 for contributions to pre-kindergarten~~
4 ~~scholarship organizations under subsection (c).~~

5 * * *

6 (i) Temporary increase in maximum tax credits available.--

7 * * *

8 (4.1) If all tax credits authorized under this article
9 for contributions to the category of scholarship
10 organizations, opportunity scholarship organizations or pre-
11 kindergarten scholarship organizations have not been awarded
12 as of November 30 of any fiscal year, then for applications
13 accepted by the department from December 1 through the end of
14 the fiscal year, the limitations set forth in subsections
15 (a), (a.1), (c) and (d) relating to the maximum amount of tax
16 credits a business firm can receive during a fiscal year for
17 contributions to each such category of organizations shall
18 not apply. Under this paragraph, the department may accept
19 applications under section 2004-B from December 1 through the
20 end of the fiscal year and shall award tax credits under this
21 article for contributions to the category of scholarship
22 organizations, opportunity scholarship organizations or pre-
23 kindergarten scholarship organizations on a first-come,
24 first-served basis until all tax credits available for the
25 fiscal year have been exhausted.

26 (5) Notwithstanding a temporary increase in maximum tax
27 credits available under this subsection, the limitations set
28 forth in subsections (a), (a.1), (c) and (d) relating to the
29 maximum amount of tax credits a business firm can receive
30 during a year for contributions to a category of scholarship

1 organizations, opportunity scholarship organizations or pre-
2 kindergarten scholarship organizations shall be reinstated
3 for all applications accepted by the department [on or] after
4 [December 1] June 30 of the fiscal year.

5 (j) Reallocation of tax credits.--

6 (1) Beginning on January 1 of any fiscal year, if any
7 tax credits authorized under this article for contributions
8 to any of the categories of scholarship organizations,
9 opportunity scholarship organizations or pre-kindergarten
10 scholarship organizations remain unawarded, such unawarded
11 tax credits may be reallocated to any of the categories of
12 scholarship organizations, opportunity scholarship
13 organizations or pre-kindergarten scholarship organizations
14 for which all available tax credits have been awarded. The
15 department shall, within 10 business days, inform each
16 business firm on the waiting list maintained by the
17 department under subsection (h) that tax credits remain
18 available under another category for which the business firm
19 has not yet applied. If a business firm notified under this
20 paragraph elects, the department shall reallocate available
21 tax credits for award to the business firm in the business
22 firm's preferred tax credit category, notwithstanding the
23 limitations contained in section 2006-B(a). [The amount of
24 tax credits to be awarded to a business firm under this
25 paragraph shall not exceed the amount of tax credits
26 available for reallocation or the maximum amount of tax
27 credits for which a business firm is eligible under
28 subsections (a), (a.1), (c) and (d).] Each business firm
29 shall have 10 business days from the date of the department's
30 notice to elect a reallocation of tax credits under this

1 paragraph. The department shall award tax credits on a first-
2 come, first-served basis.

3 (2) After the department has awarded tax credits under
4 paragraph (1), the department shall accept new applications
5 for reallocation of tax credits from any of the categories of
6 scholarship organizations, opportunity scholarship
7 organizations or pre-kindergarten scholarship organizations
8 for which tax credits remain available to the applicant's
9 preferred category of scholarship organizations, opportunity
10 scholarship organizations or pre-kindergarten scholarship
11 organizations for which all available tax credits have been
12 awarded, notwithstanding any limitations contained in section
13 2006-B(a) [. The amount of tax credits to be awarded to a
14 business firm under this paragraph shall not exceed the
15 amount of tax credits available for reallocation or the
16 maximum amount of tax credits for which a business firm is
17 eligible under] or the limitations in subsections (a), (a.1),
18 (c) and (d). The department shall award tax credits on a
19 first-come, first-served basis.

20 * * *

21 Section 4. Section 2006-B(a) of the act, AMENDED JUNE 30, <--
22 2021 (P.L.158, NO.26), is amended ~~and the section is amended by~~ <--
23 ~~adding a subsection~~ to read:

24 Section 2006-B. Limitations.

25 (a) Amount.--

26 (1) The total aggregate amount of all tax credits
27 approved for contributions from business firms to scholarship
28 organizations, educational improvement organizations and pre-
29 kindergarten scholarship organizations shall not exceed
30 ~~\$185,000,000 plus an amount to meet the obligations of~~ <--

1 ~~subsection (d.2)~~ [~~\$225,000,000~~] \$230,000,000 in a fiscal <--
2 year. THE FOLLOWING SHALL APPLY: <--

3 (i) No less than ~~\$135,000,000~~ \$175,000,000 of the <--
4 total aggregate amount ~~plus an amount to meet the~~ <--
5 ~~obligations of subsection (d.2)~~ shall be used to provide
6 tax credits for contributions from business firms to
7 scholarship organizations.

8 (ii) No less than \$37,500,000 of the total aggregate
9 amount shall be used to provide tax credits for
10 contributions from business firms to educational
11 improvement organizations.

12 (iii) The total aggregate amount of all tax credits
13 approved for contributions from business firms to pre-
14 kindergarten scholarship organizations shall not exceed
15 \$12,500,000 in a fiscal year.

16 (IV) NO LESS THAN \$5,000,000 OF THE TOTAL AGGREGATE <--
17 AMOUNT SHALL BE USED TO PROVIDE TAX CREDITS FOR
18 CONTRIBUTIONS FROM BUSINESS FIRMS TO INCREASE THE
19 SCHOLARSHIP OR PRE-KINDERGARTEN SCHOLARSHIP BY \$2,000 OR,
20 IN THE CASE OF A SCHOLARSHIP FOR A STUDENT ATTENDING A
21 SECONDARY SCHOOL, BY \$4,000, FOR A STUDENT ATTENDING AN
22 ECONOMICALLY DISADVANTAGED SCHOOL, TO THE EXTENT THAT THE
23 TOTAL AMOUNT OF SCHOLARSHIPS, PRE-KINDERGARTEN
24 SCHOLARSHIPS AND OPPORTUNITY SCHOLARSHIPS WILL NOT EXCEED
25 THE LESSER OF \$8,500 OR THE SCHOOL'S TUITION.

26 (2) The total aggregate amount of all tax credits
27 approved for contributions from business firms to opportunity
28 scholarship organizations shall not exceed [~~\$55,000,000~~ in a
29 fiscal year and no less than \$5,000,000 of the total
30 aggregate amount shall be used to provide tax credits for

1 contributions from business firms to increase the scholarship
2 amount to students attending an economically disadvantaged
3 school by up to \$1,000 more than the amount provided during
4 the immediately preceding school year.] \$50,000,000 IN A <--

5 FISCAL YEAR.

6 * * *

7 ~~(d.2) Economically disadvantaged school. For a student~~ <--
8 ~~attending an economically disadvantaged school, to the extent~~
9 ~~that the total amount of scholarships, pre kindergarten~~
10 ~~scholarships and opportunity scholarships will not exceed the~~
11 ~~lesser of \$8,500 or the school's tuition, the amount of the~~
12 ~~scholarship or pre kindergarten scholarship granted under this~~
13 ~~article shall be increased by \$2,000 or, in the case of a~~
14 ~~scholarship for a student attending a secondary school, by~~
15 ~~\$4,000.~~

16 * * *

17 Section 5. Section 2009 B(e) and (f) (1) and (5) of the act
18 are amended to read:

19 SECTION 5. SECTION 2009-B(E) AND (F) (5) OF THE ACT ARE <--
20 AMENDED TO READ:

21 Section 2009-B. Opportunity scholarships.

22 * * *

23 (e) Amount.--

24 (1) [(i) Except as otherwise provided in subparagraph
25 (ii), the] The maximum amount of an opportunity scholarship
26 awarded to an applicant without a disability shall be \$8,500.

27 [(ii) For a student attending an economically
28 disadvantaged school, the maximum amount of an
29 opportunity scholarship awarded to an applicant without a
30 disability shall be \$9,500.]

1 (2) [(i) Except as otherwise provided in subparagraph
2 (ii), the] The maximum amount of an opportunity scholarship
3 awarded to an applicant with a disability shall be \$15,000.

4 [(ii) For a student attending an economically
5 disadvantaged school, the maximum amount of an
6 opportunity scholarship awarded to an applicant with a
7 disability shall be \$16,000.]

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

14 (f) Designation, reports and notices.--~~For purposes of~~ <--
15 ~~section 2006 B(d.2):~~

16 ~~(1) Each school that desires to be designated as an~~
17 ~~economically disadvantaged school for a school year shall~~
18 ~~report the following information to the department by the~~
19 ~~January 1 preceding the applicable school year:~~

20 ~~(i) The total number of students who attend the~~
21 ~~school as of the date of the report and are the~~
22 ~~recipients of a scholarship under this article.~~

23 ~~(ii) The total number of students attending the~~
24 ~~school as of the date of the report.~~

25 ~~(iii) For start up fiscal year 2019-2020, the~~
26 ~~information in the report required under this paragraph~~
27 ~~shall be based upon the 2019-2020 school year.~~

28 * * *

29 (5) (i) Each school that has been designated by the
30 department as an economically disadvantaged school for an

1 applicable school year shall notify the department by no
2 later than [October 15] NOVEMBER 30 of the applicable <--
3 school year of the following information for each
4 recipient of a scholarship registered to attend the
5 school for the applicable school year:

6 (A) The recipient's name and address.

7 (B) The grade of the recipient for the school
8 year with respect to which the scholarship and
9 tuition grant shall be received.

10 (C) The type and amount of [scholarship]
11 scholarships under this article entitled to
12 educational tax credits that were received by the
13 recipient.

14 (D) The names and address of the recipient's
15 parents or guardians.

16 (E) The amount of tuition charged.

17 (ii) The information submitted in this paragraph
18 shall be provided to the [opportunity] scholarship
19 organization for economically disadvantaged schools who
20 shall distribute the money in accordance with section
21 ~~2006-B(d.2)~~ 2003-B(D.3). <--

22 (iii) Information submitted by a school designated
23 by the department as an economically disadvantaged school
24 shall remain confidential and shall not be subject to the
25 act of February 14, 2008 (P.L.6, No.3), known as the
26 Right-to-Know Law. The information can be used for
27 administration of the program.

28 Section 6. This act shall take effect ~~in 60 days.~~ JULY 1, <--
29 2022, OR IMMEDIATELY, WHICHEVER IS LATER.