

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 999 Session of  
2021

INTRODUCED BY MASTRIANO, AUMENT, J. WARD AND PITTMAN,  
DECEMBER 29, 2021

REFERRED TO EDUCATION, DECEMBER 29, 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," providing for military education  
6 scholarship account.

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

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
10 as the Public School Code of 1949, is amended by adding an  
11 article to read:

12 ARTICLE XX-L

13 MILITARY EDUCATION SCHOLARSHIP ACCOUNT

14 Section 2001-L. Short title.

15 This article shall be known and may be cited as the Military  
16 Education Scholarship Account Act.

17 Section 2002-L. Definitions.

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

1 "Applicant." A parent who applies for a military education  
2 scholarship account under section 2003-L(b) on behalf of an  
3 eligible student.

4 "Department." The Department of Education of the  
5 Commonwealth.

6 "Eligible student." A school-age child who meets the  
7 requirements under section 2003-L(b) and whose parent has  
8 entered into an agreement under section 2003-L(d).

9 "Institution of higher education." As defined under section  
10 118(c).

11 "Military education scholarship account." A spending account  
12 established and administered by the State Treasury, and  
13 controlled by a parent, for a school-age child with money that  
14 may be spent on a qualified education expense as provided for  
15 under section 2005-L.

16 "Nonpublic school." A school, other than a public school,  
17 located in this Commonwealth where a Commonwealth resident may  
18 legally fulfill the compulsory attendance requirements of this  
19 act, that complies with section 1521 and meets the applicable  
20 requirements of Title VI of the Civil Rights Act of 1964 (Public  
21 Law 88-352, 78 Stat. 241).

22 "Parent." An individual who:

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

24 (2) either:

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

26 or

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

30 "Participating entity."

1       (1) Any of the following where a school-age child  
2       receives instruction under section 2003-L(d):

3               (i) A nonpublic school for kindergarten through  
4               grade 12, or a combination of grades.

5               (ii) An institution of higher education.

6               (iii) A distance learning program that is not  
7               offered by a public school or the department.

8               (iv) A tutor who is a teacher licensed in any state,  
9               has taught at an eligible postsecondary institution and  
10              is a subject matter expert or a tutor or tutoring agency  
11              otherwise approved by the department.

12       (2) The term does not include a parent of a school-age  
13       child to the extent that the parent provides educational  
14       services directly to the school-age child.

15       "Program." The Military Education Scholarship Account  
16       Program established under section 2003-L(a).

17       "Public school." A school district, charter school, cyber  
18       charter school, regional charter school, intermediate unit or  
19       area career and technical school.

20       "Resident school district." The school district in which a  
21       school-age child resides.

22       "School-age child." A child enrolled in kindergarten through  
23       grade 12 and who resides in this Commonwealth.

24       "Student with a disability." A school-age child who has been  
25       identified, in accordance with 22 Pa. Code Ch. 14 (relating to  
26       special education services and programs), as a "child with a  
27       disability," as defined in 34 CFR 300.8(a) (relating to child  
28       with a disability).

29       Section 2003-L. Establishment, application and agreement.

30       (a) Establishment.--The Military Education Scholarship

1 Account Program is established as a program of the department.

2 (b) Individuals who may apply.--A parent may apply for a  
3 military education scholarship account for a school-age child  
4 who:

5 (1) is a child of a parent who is on full-time active-  
6 duty status in the armed forces of the United States,  
7 including members of the National Guard and reserve on active  
8 duty orders under 10 U.S.C. §§ 12301 (relating to reserve  
9 components generally) and 12401 et seq. (relating to Army and  
10 Air National Guard of the United States: status) or was  
11 killed in the line of duty; or

12 (2) participated in the program in the prior year and is  
13 renewing an agreement under subsection (i) by filing an  
14 application with the department, in a manner and on a form  
15 provided by the department.

16 (c) Application form.--The form may not exceed one page that  
17 measures 8.5 inches by 11 inches and may be filled out and  
18 submitted through the department's publicly accessible Internet  
19 website.

20 (d) Review and approval.--The department shall review the  
21 application to determine if the applicant meets the requirements  
22 under subsection (b). If the requirements have been met, the  
23 department shall approve the application and enter into an  
24 agreement with the applicant. The agreement shall provide that:

25 (1) The school-age child withdraw from public school and  
26 receive instruction in this Commonwealth from a participating  
27 entity for the school year for which the agreement applies.

28 (2) The school-age child not accept a scholarship in the  
29 educational improvement tax credit program under Article XX-B  
30 or the opportunity scholarship tax credit program under

1 Article XX-B.

2 (3) The parent will receive a grant on behalf of the  
3 school-age child, in the form of money deposited under  
4 section 2004-L in the military education scholarship account.

5 (4) The money in the military education scholarship  
6 account may be expended only as authorized under this  
7 article.

8 (e) Military education scholarship account.--

9 (1) If an agreement is entered into under subsection  
10 (d), a military education scholarship account shall be  
11 established. The military education scholarship account shall  
12 be administered by the State Treasury under this article.

13 (2) Failure of a parent to enter into an agreement under  
14 subsection (d) for a school year shall not preclude the  
15 parent from entering into an agreement for a subsequent  
16 school year if the school-age child is eligible under  
17 subsection (b).

18 (f) Term of agreement.--Except as otherwise provided under  
19 this article, an agreement entered into under subsection (d)  
20 shall be valid for one school year.

21 (g) Termination.--

22 (1) Notwithstanding subsection (h), an agreement entered  
23 into under subsection (d) may be terminated early.

24 (2) If an agreement is terminated early by either the  
25 parent or the department, all available money in the military  
26 education scholarship account shall revert to the State  
27 Treasury and be used in the resident school district.

28 (h) Automatic termination.--

29 (1) An agreement entered into under subsection (d) shall  
30 terminate automatically if the school-age child no longer

1 resides in this Commonwealth.

2 (2) The parent shall notify the department if the child  
3 no longer resides in this Commonwealth within 15 days of the  
4 change of residence. After the child's parent has notified  
5 the department, money remaining in the military education  
6 scholarship account shall revert to the State Treasury and be  
7 used in the resident school district.

8 (i) Renewal.--

9 (1) Subject to subsection (l), an agreement entered into  
10 under subsection (d) may be renewed for each school year for  
11 the school-age child.

12 (2) Failure of a parent to renew an agreement for a  
13 school year shall not preclude a parent from renewing the  
14 agreement for a subsequent school year if the school-age  
15 child remains eligible under subsection (b).

16 (j) Number.--A parent may enter into separate agreements  
17 under subsection (d) for each school-age child of the parent.  
18 Not more than one military education scholarship account may be  
19 established for a school-age child.

20 (k) Explanation.--Upon entering into an agreement under  
21 subsection (d) or renewing an agreement under subsection (i),  
22 the department shall provide the parent with a written  
23 explanation of the authorized uses of the money in the military  
24 education scholarship account and the responsibilities of the  
25 parent, the department and the State Treasury under the  
26 agreement and this article.

27 (l) Application and renewal period.--

28 (1) A parent may apply or seek renewal between January 1  
29 and April 1 for the following school year.

30 (2) The department shall notify parents and school

districts of approved applications by April 30.

Section 2004-L. Amount.

(a) General rule.--If a parent of an eligible student enters into or renews an agreement under section 2003-L with the department for a school year, the Secretary of Education shall deposit a grant for that school year in the military education scholarship account of the eligible student. The amount of the grant shall be as follows:

(1) For an eligible student who does not have a disability, the grant amount shall be equal to the State revenue received by school districts minus the State revenue received for transportation divided by the State total average daily membership.

(2) For an eligible student with a disability, the grant amount shall be based on the category of disability by which the resident school district is required to categorize the eligible student for the purpose of the report required under section 1372(8) as follows:

(i) For an eligible student in Category 1, multiply the grant amount in paragraph (1) by 1.51.

(ii) For an eligible student in Category 2, multiply the grant amount in paragraph (1) by 3.77.

(iii) For an eligible student in Category 3A and 3B, multiply the grant amount in paragraph (1) by 7.46.

(3) For an eligible student receiving a grant, the amount of basic education funding and other subsidies paid by the department to the resident school district shall be reduced by the grant amount calculated for the student.

(4) If a school district's basic education funding and other subsidies are reduced under this section, the resident

1 school district shall include the grant recipient in the  
2 resident school district's average daily membership for the  
3 purpose of calculating school subsidies.

4 (b) Installments.--The State Treasury shall deposit the  
5 money for each grant in quarterly installments under a schedule  
6 determined by the State Treasury.

7 (c) Disposition.--The following shall apply to money  
8 remaining in a military education scholarship account:

9 (1) For money remaining in a military education  
10 scholarship account at the end of a school year, the money  
11 may be carried forward to any other school year of the  
12 eligible student if the agreement entered into under section  
13 2003-L(d) is renewed for the other school year.

14 (2) Subject to paragraph (3), money remaining in a  
15 military education scholarship account when an agreement  
16 entered into under section 2003-L(d) is not renewed or is  
17 terminated shall revert to the resident school district.

18 (3) Money remaining in a military education scholarship  
19 account after the school-age child graduates from high school  
20 may be used for qualified education expenses under section  
21 2005-L for up to two years after the date of high school  
22 graduation. After the two-year time period under this  
23 paragraph has expired, money remaining in the military  
24 education scholarship account shall revert to the General  
25 Fund.

26 Section 2005-L. Qualified education expenses.

27 (a) General rule.--Money deposited in a military education  
28 scholarship account may be used to pay for any of the following  
29 expenses incurred by or associated with the school-age child:

30 (1) Tuition and fees charged by a participating entity.



1       (2) Textbooks or uniforms required by a participating  
2       entity.

3       (3) Fees for tutoring or other teaching services  
4       provided by a participating entity.

5       (4) Fees for a nationally norm-referenced test, advanced  
6       placement or similar examination or standardized examination  
7       required for admission to an institution of higher education,  
8       and career and technical education examination fees.

9       (5) Fees for purchasing a curriculum or instructional  
10       materials required to administer the curriculum.

11       (6) If the eligible student is a student with a  
12       disability, fees for special instruction or special services  
13       provided to the eligible student, including, but not limited  
14       to, occupational, physical, speech and behavioral therapies.

15       (7) Other valid educational expenses approved by the  
16       department.

17       (b) Prohibitions.--A participating entity that receives a  
18       payment for qualified education expenses authorized under  
19       subsection (a) may not:

20       (1) Refund a portion of the payment directly to the  
21       parent who made the payment.

22       (2) Rebate or otherwise directly share a portion of the  
23       payment with the parent who made the payment.

24       (c) Refund.--A participating entity shall deposit a refund  
25       for an item that is being returned or an item or service that  
26       has not been provided directly to the military education  
27       scholarship account of the school-age child from which payment  
28       for the item or service was made.

29       (d) Payment system.--

30       (1) The State Treasury shall develop a system that

1 enables a parent to pay for services provided by  
2 participating entities under the program by electronic money  
3 transfer, including electronic payment systems or other means  
4 of electronic payment that the State Treasury determines to  
5 be commercially viable and cost effective.

6 (2) The State Treasury may not adopt a system that  
7 requires a parent to be reimbursed for out-of-pocket  
8 expenses.

9 (e) Source of payment.--

10 (1) An individual may not deposit personal money into or  
11 otherwise make gifts or contributions of private money to a  
12 military education scholarship account.

13 (2) Nothing in this section shall be construed to  
14 prohibit a parent or school-age child from paying for  
15 qualified education expenses from a source other than the  
16 military education scholarship account.

17 Section 2006-L. Audits and penalties.

18 (a) Audit.--The Attorney General shall conduct audits of a  
19 military education scholarship account as the State Treasurer  
20 determines necessary.

21 (b) Penalties.--If the State Treasury determines that money  
22 in a military education scholarship account has been expended  
23 for an expense other than a qualified education expense under  
24 section 2005-L(a), the State Treasury may do any of the  
25 following:

26 (1) Freeze or dissolve the military education  
27 scholarship account, subject to regulations adopted by the  
28 State Treasury providing for notice of the action and  
29 opportunity to respond to the notice.

30 (2) Refer the matter to the Attorney General or district

1 attorney of the county in which the parent resides for  
2 investigation and criminal prosecution, if appropriate.

3 (3) Impose a civil penalty equal to 300% of the amount  
4 in the military education scholarship account prior to the  
5 fraudulent use.

6 (4) Disqualify the parent from future participation in  
7 the program.

8 Section 2007-L. Accountability standards for a participating  
9 entity.

10 (a) General rule.--A participating entity shall:

11 (1) Comply with all health and safety laws or codes that  
12 apply to the participating entity.

13 (2) Hold a valid occupancy permit if required by the  
14 municipality in which the participating entity is located.

15 (3) Comply with the nondiscrimination policies set forth  
16 in section 42 U.S.C. § 1981 (relating to equal rights under  
17 the law) and with section 1521.

18 (4) Comply with the provisions of sections 111 and  
19 111.1.

20 (b) Financial accountability standards.--A participating  
21 entity shall:

22 (1) Provide parents with a receipt for all qualifying  
23 expenses incurred by the participating entity.

24 (2) File with the department prior to the start of the  
25 school year financial viability documentation which  
26 demonstrates the participating entity's ability to repay  
27 \$50,000 or more from the military education scholarship  
28 accounts during the school year. The financial viability  
29 documentation shall include:

30 (i) a surety bond payable to the Commonwealth in an

1 amount equal to the aggregate amount of money from the  
2 military education scholarship accounts expected to be  
3 paid during the school year on behalf of eligible  
4 students admitted at the participating entity; or

5 (ii) financial information that demonstrates that  
6 the participating entity has the ability to pay an  
7 aggregate amount equal to the amount of money from the  
8 military educational scholarship accounts expected to be  
9 paid during the school year on behalf of eligible  
10 students admitted to the participating entity.

11 (c) Academic accountability standards.--

12 (1) A parent of an eligible student shall ensure that  
13 the department is informed of the eligible student's  
14 graduation from high school.

15 (2) The department shall:

16 (i) Ensure compliance with all student privacy laws,  
17 including the Family Educational Rights and Privacy Act  
18 of 1974 (Public Law 90-247, 20 U.S.C. § 1232g).

19 (ii) Administer an annual parental satisfaction  
20 survey that shall ask parents of eligible students  
21 participating in the program to express:

22 (A) The parents' satisfaction with the program.

23 (B) The number of years the eligible student has  
24 participated in the program.

25 (C) The parents' opinions on other topics, items  
26 or issues that the department determines would elicit  
27 information about the effectiveness of the program.

28 (d) Participating entity autonomy.--

29 (1) A participating entity shall be autonomous and may  
30 not be an agent of the department or the Commonwealth.

1       (2) The department or any other State agency may not  
2       regulate the educational program of a participating entity  
3       that accepts money from a military education scholarship  
4       account.

5       (3) The establishment of the program may not be  
6       construed to expand the regulatory authority of the State,  
7       the officers of the State or any school district to impose  
8       any additional regulation of a participating entity beyond  
9       those necessary to enforce the requirements of the program.

10 Section 2008-L. Bar of certain participating entities.

11       (a) General rule.--The department may bar a participating  
12       entity from participation in the program if the department  
13       establishes that the participating entity has:

14               (1) routinely failed to comply with the accountability  
15               standards established in section 2007-L; or

16               (2) failed to provide an eligible student with the  
17               educational services funded by the eligible student's  
18               military education scholarship account.

19       (b) Notice.--If the department bars a participating entity  
20       from participation in the program, the department shall post the  
21       decision on the department's publicly accessible Internet  
22       website. A participating entity may appeal the department's  
23       decision under this section.

24 Section 2009-L. Duties of resident school districts.

25       (a) School records.--A resident school district shall  
26       provide a participating entity that has admitted an eligible  
27       student participating in the program with a complete copy of the  
28       student's school records immediately upon the student's  
29       enrollment or when services in the participating entity begin,  
30       subject to the Family Educational Rights and Privacy Act of 1974

1 (Public Law 90-247, 20 U.S.C. § 1232g).

2 (b) Transportation.--A resident school district shall  
3 provide transportation for an eligible student to and from the  
4 participating entity under the same conditions as the resident  
5 school district provides transportation of other resident  
6 students to nonpublic schools under section 1361. The resident  
7 school district shall qualify for State transportation  
8 reimbursement for each eligible student transported.

9 Section 2010-L. Legal proceedings.

10 (a) Liability.--No liability shall arise on the part of the  
11 agency, the Commonwealth or a public school or school district  
12 based on the award or use of a military education scholarship  
13 account under this article.

14 (b) Challenges.--If any part of this article is challenged  
15 in a State court as violating either the Constitution of the  
16 United States or the Constitution of Pennsylvania, parents of  
17 eligible students and students who previously had a military  
18 education scholarship account shall be permitted to intervene as  
19 of right in the lawsuit for the purposes of defending the  
20 military education scholarship account program's  
21 constitutionality. For the purposes of judicial administration,  
22 a court may require that all parents file a joint brief but may  
23 not require all parents to join a brief filed on behalf of a  
24 named State defendant.

25 (c) Severability.--If any provision of this article or the  
26 application thereof to any person or circumstance is held  
27 invalid, the invalidity shall not affect other provisions or  
28 applications of this article which can be given effect without  
29 the invalid provision or application, and to this end the  
30 provisions of this article are declared to be severable.

1 Section 2011-L. Listing of participating entities.

2 The department shall annually post on the department's  
3 publicly accessible Internet website a listing of all  
4 participating entities.

5 Section 2012-L. Regulations.

6 The State Treasury and the department shall jointly develop  
7 guidelines as necessary for the administration of this article  
8 within 60 days of the effective date of this section.

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