

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 1330

**PRINTER'S NO.** 3892

**AMOUNT**

\$75,557,000 annually

**FUND**

General

**DATE INTRODUCED**

April 11, 2011

**PRIME SPONSOR**

Representative Quigley

**HISTORY OF BILL**

Referred to EDUCATION, April 11, 2011  
Reported as amended, April 26, 2011  
First consideration, April 26, 2011  
Laid on the table, April 26, 2011  
Removed from table, April 27, 2011  
Re-committed to EDUCATION, May 2, 2011  
Amended in House Committee on EDUCATION, May 3, 2011  
Re-reported as amended, May 4, 2011  
Second consideration, May 9, 2011  
Re-committed to APPROPRIATIONS, May 9, 2011  
(Remarks see House Journal Page 872-888), May 9, 2011  
Re-reported as committed, May 10, 2011  
Third consideration and final passage, May 10, 2011 (190-7)  
(Remarks see House Journal Page 898-899), May 10, 2011  
In the Senate  
Referred to EDUCATION, June 7, 2011  
Reported as amended, June 26, 2012  
First consideration, June 26, 2012  
Second consideration, June 27, 2012  
Re-referred to APPROPRIATIONS, June 27, 2012  
Re-reported as amended, June 30, 2012  
Third consideration and final passage, June 30, 2012 (49-0)

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 1330 reestablished the Educational Improvement Tax Credit, program provides for the Educational Opportunity Scholarship Program, makes changes related to the governance and operation of charter schools, establishes a Special Education Funding Commission and provides for special education accountability measures in the Public School Code of 1949.

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

### **Educational Improvement Tax Credit Program**

Increases tax credits available under the EITC program from \$75 million to \$100 million beginning in FY 2012-13. Provides, \$60 million in credits would be made available to scholarship organizations, \$30 million to educational improvement organizations and \$10 million to prekindergarten scholarship organizations.

Increases the amount of the annual tax credit available to a business firm making a contribution to a scholarship organization or educational improvement organization from \$300,000 to \$400,000 in FY 2012-13 and in FY 2013-14 from \$400,000 to \$750,000. Increases the annual tax credit available for making a contribution to a prekindergarten scholarship organization from \$150,000 to \$200,000.

Allows business firms to seek a credit against tax liabilities under Article XVI of the Insurance Company Law, the surplus lines tax.

Allows "pass through entities" (partnerships, Pennsylvania S corps, and single-member liability companies) to make application for tax credits on July 1<sup>st</sup> of each fiscal year. Presently, they may make applications on July 7, while other business firms may make application on July 1.

Increases the maximum household income for students to be eligible for a scholarship in FY 2013-14 from \$60,000 to \$75,000 and the income allowance by which the maximum household income may be adjusted for each eligible student or dependent member of the household from \$12,000 to \$15,000. Beginning FY 2014-15, requires the Department of Community and Economic Development to annually adjust the maximum household income and the income allowance to reflect upward increases in the Consumer Price Index.

Allows approved private schools and the chartered schools for the deaf and blind to receive funding for innovative education programs from educational improvement organizations. Allows scholarship programs to pay for school-related fees.

Requires scholarship organizations and pre-kindergarten scholarship organizations make additional annual reports.

### **Educational Opportunity Scholarship Tax Credit Program**

Provides \$50 million in tax credits to business firms who contribute to scholarship organizations for opportunity scholarships.

Provides for scholarships to be awarded to students residing within the attendance boundaries of a low-achieving school for tuition and fees to attend another public or nonpublic school. Defines "low-achieving" school as a public school ranked in the lowest 15 percent of its designation as an elementary or secondary school based on combined reading and mathematics scores from the annual assessment.

# **SENATE APPROPRIATIONS COMMITTEE**

## **FISCAL NOTE**

Provides for the scholarship amount not to exceed \$8,500 for regular education students and \$15,000 for special education students. Provides scholarships and tuition assistance provided to a scholarship recipient cannot exceed tuition and fees. Provides home schooled students are not eligible for scholarships. Provides scholarships are not considered taxable income.

Requires scholarship organizations to prioritize the awarding of funds as follows: (1) an applicant who received a scholarship in the prior year; (2) an applicant with household income no greater than 185 percent of the Federal poverty level; (3) an applicant with household income no greater than 185 percent of the Federal poverty level who resides in a school district of the first class or a financial recovery school district.

Provides for a student that receives a scholarship to be counted in his school district of residence's average daily membership for one-year following enrollment in another public or nonpublic school. Provides for school districts to receive pupil transportation subsidy for students transported to public and nonpublic schools under the program.

Allows school districts to establish a grant program to assist students in the district attend another public or nonpublic school. Grants provided may not exceed the school districts amount of per pupil state subsidy for basic education.

Includes reporting provisions for scholarship organizations.

Provisions regarding the amount of tax credits available to business firms, taxes for which a credit against liabilities may be sought, tax credit applications, income limits for eligible students and other administrative provisions mirror provisions contained in the EITC program.

### **Charter Schools**

Provides for the Department of Education to establish a 17 member advisory committee to examine the financing of charter and cyber charter schools. Members are to receive no compensation for their service but shall be reimbursed for necessary travel and reasonable expenses. The committee is to review and make recommendations on funding formulas, student residency, transportation, special education funding and eligibility to receive grants and other funding. Provides for existing staff of State government to assist the committee in its work and allows the department to utilize an amount not to exceed \$300,000 from funds not expended, encumbered or committed for this purpose. The committee is also charged with issuing a report of its funding to the General Assembly and the Governor no later than November 30, 2012.

## **SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE**

Provides for direct payment of state funding to charter and cyber charter schools in 12 monthly payments and establishes procedures to resolve funding disputes. Funds are to be deducted from subsidies due to the student's school district of residence. Allows the department to recoup funds from a charter school. Allows a charter schools to elect to be paid by the local school district. Requires charter schools to hold in escrow an amount sufficient to pay debt service. Requires the secretary withhold funds due to charter school in the amount necessary to pay debt service if a payment is missed. Places limits on the unassigned fund balance a charter school may accumulate depending on the school's amount of total budgeted expenditures. Requires amounts in excess of the fund balance limits to be refunded to the school districts that paid tuition to the school on a pro rata basis.

Increases the membership on the charter school appeal board from seven to nine members by requiring the addition of a charter or cyber charter school administrator and trustee.

Increases the initial term of a charter from three to five years and a renewal from five to ten years. Establishes a process for a charter or cyber charter school to amend its existing charter agreement.

Requires the department to develop a performance matrix to evaluate charter and cyber charter school performance within one year of the effective date of the act. The performance matrix is to utilize objective criteria including, but not limited to: the Pennsylvania System of School Assessment Test, Keystone Exams; annual growth as determined by the Pennsylvania Value Added Assessment System; attendance; attrition rates graduation rates; accreditation; school safety; measures of teacher effectiveness; and other measure of school quality.

Provides that a charter or cyber charter school trustee is a public official subject to the Ethics Act and required to file an annual statement of financial interest. Prohibits conflicts of interest by a trustee and provides for the removal of a trustee for conviction of a felony, and other crimes. Provides for procedures to remove a trustee that neglects to perform the duties required under this act. Prohibits an administrator or immediate family member from serving as a voting member of the board of trustees of that person's school. For a school chartered after the effective date of the act, it prohibits an individual from serving as a trustee of a charter or cyber charter school, if the individual or immediate family member is employed by or is a member of the local board of school directors.

Provides that a charter or cyber charter school administrator is a public employee subject to the Ethics Act and required to file an annual statement of financial interest. Prohibits conflicts of interest by an administrator and provides for the dismissal of an administrator for conviction of a felony, and other crimes. Prohibits an administrator from receiving compensation from another charter school, cyber charter school or education management service provider, unless the administrator has provided the school's board with details of the work to be performed for another entity and receives the permission of the board.

# **SENATE APPROPRIATIONS COMMITTEE**

## **FISCAL NOTE**

Provides local school board directors ongoing access to a charter school's financial records, reports, aggregate standardized test scores, and teacher certification and personnel records. Requires a charter school form an independent audit committee to annually review a complete certified audit of the charter schools operations. Provides for a charter school's audit and annual budget to be public documents and available of the school districts and charter school Internet website. Provides that a charter school is subject to audit by the Auditor General. Requires that a charter school must annually provide the school district and the department with its annual budget that identifies sources of funding, the amount and use of funds provided by a chart school foundation and the salaries of administrators. Requires charter schools and related foundations to make their budget and tax fillings available upon request and on the Internet.

Provides that alcoholic beverages are not to be available for consumption, purchase or sale in any charter or cyber charter school facility and provides for penalties for violating this provision. Clarifies that charter and cyber charter schools or associated non-profits are tax exempt. Allows a school district to permit a charter school to operate at more than one location. Provides that charter schools are not subject to enrollment caps. Specifies that charter and cyber charter schools may enter into concurrent enrollment agreements and seek accreditation. Allows charter and cyber charter schools to utilize sectarian facilities if it covers or removes religious objects to the extent reasonably feasible.

### **Special Education Funding Commission and Accountability**

Establishes the Special Education Funding Commission to review and make recommendations related to special education funding. The commission shall be composed of the following members. The chairman and minority chairman of the Education Committee of the Senate; the chairman and minority chairman of the Education Committee of the House of Representatives, two legislators from each of the four legislative caucuses to be determined by the leadership, the Secretary of Education; the Secretary of the Budget; and, the Deputy Secretary for Elementary and Secondary Education. Provides for the members to receive no compensation but receive reimbursement for expenses. Provides for the commission to identify factors that may be used to determine distribution of funding, consult with experts, receive input from interest parties, and hold public hearings. Specifies that the following factors may be used: (1) Three categories for students receiving special education services based the intensity of services and weighting factors for each category; (2) a student count for each school district averaged for the three most recent years for each cost category; (3) three weighting factors that differs for each cost category; (4) adjustments for market value/personal income aid ratio averaged for the most recent three years, equalized millage rate averaged for the most recent three years and geographic price differences; and (5) a proportional system for distributing the change in special education funding using the factors. Provides for the commission to be reconvened every five years. Requires the commission to make a report to the Governor, the General Assembly and the State Board of Education no later than November 30, 2012.

# **SENATE APPROPRIATIONS COMMITTEE**

## **FISCAL NOTE**

Requires the department to set aside one percent of the total special education appropriation for extraordinary special education expenses as in current law. To the extent funds are appropriated, establishes a competitive grant program for school districts and charter schools providing special education services that meet certain criteria related to providing instruction in the regular classroom, meeting standards and implementing model programs. Beginning in fiscal year 2014-2015, requires the department to set aside an amount equal to one percent of the appropriation above the current year amount to be distributed to school districts on a pro rata basis considering the number of students classified in category 3.

Requires the department determine the form and manner in which school districts shall submit special education plans and revisions. Requires the department to review plans; provide recommendations and technical assistance; approve and disapprove plans; and provide a written explanation of disapproved plans. Provides the department may withhold the annual State increase in funds that exceed the index in the Taxpayer Relief Act until such time that a school district plan is approved. Provides for the Secretary to involve relevant staff in monitoring, intervention, technical assistance and plan review.

Requires school districts receiving increases in special education above the index to submit plan updates and revisions to the department. Requires funds to be used for programs and supports that benefit eligible students in the least restrictive environment and contribute to achievement of performance indicators. Requires the department to identify resources for programs and supports that benefit eligible students and contribute to performance indicators and make the resources available to schools in the Commonwealth.

Provides for the department to issue a comprehensive annual report on special education plans and other special education accountability issues. Provides for the department to review and monitor implementation of plans, provide support, intervention and technical assistance in school districts failing to meet student need based on performance indicators, post on its Internet website information about school progress meeting students needs and withhold up to five percent of all special education funding from school districts failing to meet student needs while identified problems remain unresolved.

Requires the department review the special education plans of school districts with a substantially higher ratio of special education students than the state average and with substantial increases from year to year or over five years to discourage inappropriate over identification. If the ratio or increase is unjustified the department may take remedial action, including withholding up to five percent of special education funding. Provides a procedure for the department to give school districts notice of its decisions and actions, including an appeal to the Secretary.

Provides for the accountability provisions to be waived until such time that special education funding is increased. Requires the department to collect the data necessary for the accurate functioning of the formula factors contained in the legislation.

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

### **FISCAL IMPACT:**

The provisions contained in House Bill 1330 expanding the tax credits available under the Educational Improvement Tax Credit Program and the Educational Opportunity Scholarship Tax Credit Program will reduce state revenues by \$75 million beginning in FY 2012-13 and each year thereafter. Beginning in fiscal year 2013-14 and thereafter, the Commonwealth will incur additional costs for the transportation of students receiving scholarships under the Educational Opportunity Scholarship Tax Credit Program who move from public to nonpublic schools. The cost of the reimbursement amounts to \$385 per student. Cost incurred by the Department of Community and Economic Development to administer the new Educational Opportunity Scholarship Tax Credit Program should be minimal and can be accomplished within its existing operating budget.

It is estimated that the Department of Education will incur additional costs estimated to be \$250,000 annually to implement and process direct payments to charter schools.

It is estimated the administrative provisions related to special education plan review and monitoring will cost the Department of Education approximately \$300,000 annually. In addition, it estimates modifying existing data systems to collect the data factors referenced by the legislation will cost approximately \$7,000.