
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1188 Session of
2015

INTRODUCED BY ROEBUCK, D. COSTA, HARHAI, HARKINS, KINSEY,
LONGIETTI, McNEILL, MURT, SCHREIBER, SCHWEYER, THOMAS, TRUITT
AND YOUNGBLOOD, MAY 12, 2015

REFERRED TO COMMITTEE ON EDUCATION, MAY 12, 2015

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for an educational improvement
11 opportunity scholarship tax credit.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

17 ARTICLE XVII-F.1

18 EDUCATIONAL IMPROVEMENT OPPORTUNITY SCHOLARSHIP TAX CREDIT

19 Section 1701-F.1. Scope of article.

20 This article establishes the educational improvement
21 opportunity scholarship tax credit.

22 Section 1702-F.1. 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 "Assessment." The Pennsylvania System of School Assessment
5 test, the Keystone Exam, an equivalent local assessment or
6 another test established by the State Board of Education to meet
7 the requirements of section 2603-B(d)(10)(i) of the Public
8 School Code of 1949 and required under the No Child Left Behind
9 Act of 2001 (Public Law 107-110, 115 Stat. 1425) or its
10 successor statute or any other test required to achieve other
11 standards established by the Department of Education for the
12 public school or school district under 22 Pa. Code § 403.3
13 (relating to single accountability system).

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

19 "Contribution." A donation of cash, personal property or
20 services, the value of which is the net cost of the donation to
21 the donor or the pro rata hourly wage, including benefits, of
22 the individual performing the services.

23 "Department." The Department of Community and Economic
24 Development of the Commonwealth.

25 "Educational improvement initiative." An initiative
26 implemented by a school district under section 1710-F.1.

27 "Educational improvement organization." A nonprofit entity
28 which:

29 (1) is exempt from Federal taxation under section 501(c)
30 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,

1 26 U.S.C. § 1 et seq.); and

2 (2) contributes at least 80% of its annual receipts as
3 grants to a public school for educational improvement
4 initiatives.

5 For purposes of this definition, a nonprofit entity
6 "contributes" its annual cash receipts when it expends or
7 otherwise irrevocably encumbers those funds for expenditure
8 during the then current fiscal year of the nonprofit entity or
9 during the next succeeding fiscal year of the nonprofit entity.
10 A nonprofit entity shall include a school district foundation
11 and public school foundation.

12 "Low-achieving school." A public school that ranked in the
13 lowest 15% of its designation as an elementary school or a
14 secondary school based on combined mathematics and reading
15 scores from the annual assessment administered in the previous
16 school year and for which the Department of Education has posted
17 results on its publicly accessible Internet website. The term
18 does not include a charter school, cyber charter school or area
19 vocational-technical school.

20 "Pass-through entity." A partnership as defined in section
21 301(n.0), a single-member limited liability company treated as a
22 disregarded entity for Federal income tax purposes or a
23 Pennsylvania S corporation as defined in section 301(n.1).

24 "Program." The Educational Improvement Opportunity
25 Scholarship Tax Credit Program established under this article.

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

28 "Tax credit." The educational improvement opportunity
29 scholarship tax credit provided under this article.

30 Section 1703-F.1. Qualification and application.

1 (a) Establishment.--The Educational Improvement Opportunity
2 Tax Credit Scholarship Program is established. The program shall
3 provide tax credits to entities that provide contributions to
4 educational improvement organizations. Contributions to the
5 educational improvement organizations shall be used to provide
6 grants to school districts with low-achieving schools to improve
7 students' academic performance through educational improvement
8 initiatives under section 1710-F.1.

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

15 (c) Application.--An application submitted by an educational
16 improvement organization must certify to the department that the
17 organization is eligible to participate in the program. The
18 application must include a description of the educational
19 improvement initiatives under section 1710-F.1 that are being
20 funded by the educational improvement organization. The
21 department shall prescribe the form of the application.

22 (d) Annual certification of eligibility.--By August 15,
23 2015, and by February 15, 2016, and each February 15 thereafter,
24 an educational improvement organization must certify to the
25 department that the organization is eligible to participate in
26 the program.

27 (e) Report.--

28 (1) An educational improvement organization must agree
29 to report the following information on a form provided by the
30 department by September 1, 2016, and each September 1

1 thereafter:

2 (i) The names of the school districts and the low-
3 achieving schools that received grants and the total
4 amount of the grants made to school districts during the
5 immediately preceding school year.

6 (ii) A description of how each grant was utilized
7 during the immediately preceding school year and a
8 description of any demonstrated or expected improvements
9 in academic performance of students.

10 (iii) Where the educational improvement organization
11 collects information on a county-by-county basis, the
12 total number and the total amount of grants made during
13 the immediately preceding school year for initiatives at
14 public schools in each county in which the educational
15 improvement organization made grants.

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

22 (2) The information required under paragraph (1) shall
23 be submitted on a form provided by the department. No later
24 than September 1, 2015, and May 1 of each year thereafter,
25 the department shall annually distribute such sample forms,
26 together with the forms on which the reports are required to
27 be made, to each listed educational improvement organization.

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

1 (f) Notification.--The department shall notify the
2 educational improvement organization that the organization meets
3 the requirements of this article for that fiscal year no later
4 than 60 days after the organization has submitted the
5 information required under this section.

6 (g) Publication.--The department shall annually publish a
7 list of each educational improvement organization qualified
8 under this section in the Pennsylvania Bulletin. The list shall
9 also be posted and updated as necessary on the department's
10 publicly accessible Internet website.

11 Section 1704-F.1. Tax credit application.

12 (a) Educational improvement organization.--A business firm
13 shall apply to the department for a tax credit under section
14 1705-F.1. A business firm shall receive a tax credit if the
15 educational improvement organization that receives the
16 contribution appears on the list published under section 1703-
17 F.1(g).

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

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

25 Section 1705-F.1. Tax credit.

26 (a) Educational improvement organizations.--

27 (1) In accordance with section 1706-F.1(a), the
28 Department of Revenue shall grant a tax credit against any
29 tax due under Article XVI of the act of May 17, 1921
30 (P.L.682, No.284), known as The Insurance Company Law of

1 1921, or under Article III, IV, VI, VII, VIII, IX or XV to a
2 business firm providing proof of a contribution to an
3 educational improvement organization in the taxable year in
4 which the contribution is made, which shall not exceed 75% of
5 the total amount contributed during the taxable year by the
6 business firm.

7 (2) For the fiscal year 2015-2016 and each fiscal year
8 thereafter, the tax credit shall not exceed \$750,000 annually
9 per business firm for contributions made to educational
10 improvement organizations.

11 (b) Additional amount.--

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

18 (2) The business firm must provide the written
19 commitment under this subsection to the department at the
20 time of application.

21 (c) Combination of tax credits.--

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

25 (2) In no case may a business firm receive tax credits
26 in any tax year in excess of \$750,000 for contributions under
27 subsections (a) and (b) made during fiscal year 2015-2016 or
28 any fiscal year thereafter.

29 (d) Pass-through entity.--

30 (1) If a pass-through entity does not intend to use all

1 approved tax credits under this section, it may elect in
2 writing to transfer all or a portion of the credit to
3 shareholders, members or partners in proportion to the share
4 of the entity's distributive income to which the shareholder,
5 member or partner is entitled for use in the taxable year in
6 which the contribution is made or in the taxable year
7 immediately following the year in which the contribution is
8 made. The election shall designate the year in which the
9 transferred credits are to be used and shall be made
10 according to procedures established by the Department of
11 Revenue.

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

15 (3) The shareholder, member or partner may not carry
16 forward, carry back, obtain a refund of or sell or assign the
17 credit.

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

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

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

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

30 Section 1706-F.1. Tax credit limitations.

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

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

6 (c) Tax liability.--

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

10 (2) In the case of a credit granted to a pass-through
11 entity which elects to transfer the credit according to
12 section 1705-F.1(d), a tax credit granted for any one taxable
13 year and transferred to a shareholder, member or partner may
14 not exceed the tax liability of the shareholder, member or
15 partner.

16 (d) Use.--A tax credit not used by the applicant in the
17 taxable year the contribution was made or in the year designated
18 by the shareholder, member or partner to whom the credit was
19 transferred under section 1705-F.1(d) may not be carried forward
20 or carried back and is not refundable or transferable.

21 Section 1707-F.1. Tax credit lists.

22 The Department of Revenue shall provide a list of all
23 educational improvement organizations receiving contributions
24 from business firms granted a tax credit under this article to
25 the General Assembly by June 30 of each year.

26 Section 1708-F.1. Department notice.

27 By August 15, 2015, and by February 1 of each year
28 thereafter, the department shall provide all educational
29 improvement organizations with a list of the low-achieving
30 schools located within each school district.

1 Section 1709-F.1. List of low-achieving schools.

2 (a) List of low-achieving schools.--By September 1, 2015,
3 and by February 1 of each year thereafter, the Department of
4 Education shall publish on its publicly accessible Internet
5 website and in the Pennsylvania Bulletin a list of the low-
6 achieving schools for the following school year.

7 (b) Notice.--By August 1, 2015, and by February 1 of each
8 year thereafter, the Department of Education shall notify every
9 school district identified as having at least one low-achieving
10 school of its designation and shall furnish the school district
11 with a list of the low-achieving schools located within the
12 school district.

13 Section 1710-F.1. Educational improvement initiatives.

14 The following initiatives designed by a school district to
15 improve the academic performance of students in a low-achieving
16 school in meeting State academic standards are eligible for
17 grant funding under this article:

18 (1) Targeted tutoring in reading and mathematics
19 provided during the normal school day to increase student
20 academic achievement on State assessments.

21 (2) Targeted interventions, both after-school programs
22 and summer-school programs, that include tutoring by
23 Department of Education-approved providers, mentoring and
24 family support for at-risk students addressing truancy,
25 parenting skills and intensive social services.

26 (3) Community partnerships and wraparound programs that
27 provide health and human services to students and their
28 families, which may include trauma-informed education and
29 positive behavioral support.

30 (4) Other programs or activities, as approved by the

1 Department of Education, which the board of school directors
2 of a school district determines are essential to improving
3 academic performance of students in a low-achieving school.
4 Section 2. This act shall take effect immediately.