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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1136 Session of  
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INTRODUCED BY STEPHENS, SCHLOSSBERG, MACKENZIE, TOPPER, MURT,  
READSHAW, A. HARRIS, V. BROWN, D. COSTA, GABLER, NEILSON AND  
GILLEN, APRIL 10, 2017

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REFERRED TO COMMITTEE ON FINANCE, APRIL 10, 2017

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AN ACT

1 Establishing the Pay for Success Pilot Program and the Pay for  
2 Success Trust Fund; and providing for duties of the Office of  
3 the Budget and the Independent Fiscal Office.

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

7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Pay for  
11 Success Authorization and Performance Accountability Act.

12 Section 102. Definitions.

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

16 "Eligible organization." An organization that:

17 (1) provides early childhood education programs to  
18 children three and four years of age;

19 (2) has earned a Keystone STAR 3 or Keystone STAR 4  
20 designation; and

21 (3) has applied for participation in the pilot program  
22 and is qualified to receive funds under a pay for success  
23 contract.

24 "Fund." The Pay for Success Trust Fund established under  
25 section 501.

26 "Independent evaluator." An individual or organization that  
27 evaluates whether the predefined outcomes of a pay for success  
28 contract have been achieved.

29 "Intermediary." An organization capable of entering into a  
30 pay for success contract with the Commonwealth that sets forth

1 outcome-based performance standards, contracting with eligible  
2 organizations to deliver social services achieving these  
3 standards, raising capital to finance the delivery of social  
4 services via a social impact funding instrument and  
5 administering the social impact funding instrument by providing  
6 ongoing investor relations and project management. The term  
7 includes an affiliate of an intermediary.

8 "Office." The Office of the Budget.

9 "Pay for success contract." An outcome-based performance  
10 agreement entered into by the Commonwealth with an intermediary  
11 to achieve specifically defined, measurable outcomes for a given  
12 population over a certain period of time for which the  
13 Commonwealth pays only to the extent that the defined outcomes  
14 are achieved, as determined by an independent evaluator.

15 "Pilot program." The Pay for Success Pilot Program  
16 established under section 301.

17 "Social impact funding instrument." An investment product  
18 established by an intermediary to raise private investment  
19 capital for social programs.

20 CHAPTER 3

21 PAY FOR SUCCESS PILOT PROGRAM

22 Section 301. Program established.

23 (a) Establishment.--The Pay for Success Pilot Program is  
24 established to expand access to high-quality early childhood  
25 education services by encouraging private investment in early  
26 childhood education. The pilot program is designed to reduce:

27 (1) Federal, State and municipal expenditures related to  
28 early childhood education services.

29 (2) Expenditures related to basic and special education  
30 services in kindergarten through twelfth grade.

1 (b) Duration.--The pilot program shall expire seven years  
2 from the date of its implementation.

3 Section 302. Program description.

4 The pilot program shall be comprised of three pilot projects.  
5 One pilot project shall be implemented within each of the  
6 following, as determined by the office:

7 (1) A county of the first or second class.

8 (2) A county of the second class A or third class.

9 (3) A county of the fourth through eighth class.

10 Section 303. Pay for success contracts.

11 Notwithstanding any other provision of law, the office may  
12 enter into pay for success contracts for early childhood  
13 education services. Each contract shall include the following:

14 (1) The stated objective that early childhood education  
15 services will be provided to children for the following  
16 purposes:

17 (i) To achieve an improvement in readiness for  
18 entering kindergarten.

19 (ii) To reduce the number of children requiring  
20 special education services and grade retention by fourth  
21 grade.

22 (2) A requirement that payment from the Commonwealth be  
23 conditioned on the achievement of specific outcomes, based on  
24 defined performance targets.

25 (3) An objective process by which an independent  
26 evaluator will determine whether the performance targets have  
27 been achieved.

28 (4) A detailed description of the intermediary's  
29 services under the contract.

30 (5) A calculation of the amount and timing of payments

1 that will be earned by the intermediary during each year of  
2 the contract if performance targets are achieved as  
3 determined by an independent evaluator.

4 (6) A requirement that the intermediary create a social  
5 impact funding instrument to obtain the funds required for  
6 the pilot program.

7 (7) A requirement that the total amount of repayments  
8 and interest shall not surpass 50% of the actual total  
9 savings to the Commonwealth, as determined by the Independent  
10 Fiscal Office.

11 (8) A requirement that the intermediary provide to the  
12 office an annual status report on all contracts. The report  
13 shall include the following information:

14 (i) The number of persons who were eligible for the  
15 pilot program funded through pay for success contracts.

16 (ii) The number of persons who applied for the pilot  
17 program.

18 (iii) If a person was not selected for the pilot  
19 program, the reason for rejection.

20 (iv) The number of persons served by the pilot  
21 program.

22 (v) The type of services provided.

23 (vi) The outcomes observed.

24 (vii) The costs avoided.

25 (9) A funding provision, which requires that the office  
26 request an appropriation to the fund each fiscal year that  
27 the contract is in effect, in an amount determined by the  
28 Independent Fiscal Office based upon an assessment of an  
29 independent evaluator. The appropriation requested must be  
30 equal to the amount due from the Commonwealth for services

1 provided under the contract during a given fiscal year, if  
2 performance targets are achieved in accordance with the terms  
3 of the contract.

4 (10) A process for the Commonwealth to review payments  
5 made by the intermediary through reporting requirements  
6 pursuant to the contract.

7 (11) A determination by the Independent Fiscal Office  
8 that the contract will result in significant performance  
9 improvements and budgetary savings to the Commonwealth across  
10 all impacted areas and agencies if the performance targets  
11 are achieved.

12 Section 304. Intermediary activities.

13 Intermediary activities associated with a pay for success  
14 contract may include, but are not limited to:

15 (1) Negotiating and structuring a pay for success  
16 contract among government entities, intermediaries and  
17 private sector entities.

18 (2) Raising sufficient capital to fund all costs related  
19 to a pay for success contract.

20 (3) Deploying capital and providing guidance to eligible  
21 organizations working toward achieving the defined outcomes  
22 of a pay for success contract.

23 (4) Assisting an independent evaluator with the  
24 evaluation process by which the outcomes of a pay for success  
25 contract are determined.

26 (5) Repaying the providers of capital in the event the  
27 defined outcomes are achieved and verified.

28 (6) Providing the Independent Fiscal Office with any  
29 information, data and documentation requested to fulfill its  
30 obligations under this act.

1 Section 305. Duties of Independent Fiscal Office.

2 The Independent Fiscal Office shall determine the amount  
3 necessary to pay the principal and interest on all obligations  
4 for repayment under the pay for success contracts entered into  
5 by the Commonwealth.

6 CHAPTER 5

7 FUNDING

8 Section 501. Pay for Success Trust Fund.

9 (a) Establishment of fund.--The Pay for Success Trust Fund  
10 is established as a special fund in the State Treasury. All  
11 money deposited in the fund and the interest it accrues are  
12 appropriated on a continuing basis to the office and shall be  
13 used solely for the purposes of the pilot program.

14 (b) Fund sources.--The fund shall consist of money  
15 appropriated by the General Assembly and money deposited from  
16 sources under section 502.

17 (c) Budget request.--Each fiscal year, the office shall  
18 submit a budget request in an amount equal to the amount due for  
19 payment for services provided during a given fiscal year under  
20 the pay for success contracts entered into by the office. The  
21 budget request shall only include payments to be made under pay  
22 for success contracts when the performance targets are achieved  
23 in accordance with the terms of the contracts. The Independent  
24 Fiscal Office shall determine, based upon an assessment of an  
25 independent evaluator, whether performance targets are  
26 successfully achieved. The independent evaluator may not be  
27 associated, as that term is used in 65 Pa.C.S. Ch. 11 (relating  
28 to ethics standards and financial disclosure), with any investor  
29 or intermediary, or any principal thereof, or with the office.

30 (d) Use of money.--Money in the fund shall be used to make

1 payments in accordance with the terms and conditions of the pay  
2 for success contracts.

3 (e) Separate account.--The State Treasurer shall establish a  
4 separate account within the fund for each pay for success  
5 contract entered into by the Commonwealth.

6 Section 502. Grants and other funding.

7 The office and an intermediary may apply for, and accept for  
8 deposit into the fund, gifts, donations and grants from  
9 interested public or private sources for the establishment and  
10 administration of the pilot program and the capitalization of  
11 the fund.

12 Section 503. Limitation.

13 The pilot program's outstanding obligations for pay for  
14 success contracts shall not exceed, in the aggregate,  
15 \$50,000,000.

## 16 CHAPTER 7

### 17 ADMINISTRATION

18 Section 701. Report.

19 (a) Report required.--By February 1 of each year, the office  
20 shall provide a status report on the pilot program to the  
21 following:

22 (1) The Governor.

23 (2) The chairperson and minority chairperson of the  
24 Appropriations Committee of the Senate.

25 (3) The chairperson and minority chairperson of the  
26 Appropriations Committee of the House of Representatives.

27 (b) Contents.--The report shall include the following  
28 information:

29 (1) The information provided to the office by  
30 intermediaries under section 303(8).

1 (2) The balance of the fund.

2 (3) Expenditures from the fund for each pay for success  
3 contract.

4 (4) The total anticipated repayment obligation for all  
5 outstanding pay for success contracts, as determined by the  
6 Independent Fiscal Office based upon an assessment of current  
7 performance outcomes by an independent evaluator.

8 (5) An assessment of the feasibility of expanding the  
9 pilot program Statewide and expanding the scope of pay for  
10 success contracts beyond early childhood education programs.

11 (c) Public information.--The report shall be subject to the  
12 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-  
13 Know Law.

14 Section 702. Regulations.

15 The office shall promulgate any regulations necessary to  
16 effectuate the purposes of this act.

17 CHAPTER 21

18 MISCELLANEOUS PROVISIONS

19 Section 2101. Effective date.

20 This act shall take effect in 60 days.