

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 800 Session of 2019

INTRODUCED BY TURZAI, MILLARD, REESE, HICKERNELL, ROTHMAN, FEE, RYAN, GREINER, PYLE, PICKETT, ZIMMERMAN, BENNINGHOFF, READSHAW, KAUFFMAN, WARNER, BERNSTINE, STAATS, SONNEY, MASSER, B. MILLER, SCHLEGEL CULVER, SIMMONS, MACKENZIE, EVERETT, SCHEMEL, NESBIT, LAWRENCE, TOPPER, SANKEY, F. KELLER, MENTZER, NELSON, DIAMOND, DRISCOLL, FRITZ, HENNESSEY, MALONEY, GROVE, ROZZI, BARRAR, WHEELAND, SAYLOR, HERSHEY, TOEPEL, GABLER, SCHMITT, KORTZ, DeLUCA AND OBERLANDER, MARCH 18, 2019

REFERRED TO COMMITTEE ON EDUCATION, MARCH 18, 2019

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 and for limitations.

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

9 Section 1. The definitions of "educational improvement
 10 organization," "eligible pre-kindergarten student," "eligible
 11 student," "eligible student with a disability," "maximum annual
 12 household income," "opportunity scholarship organization," "pre-
 13 kindergarten scholarship organization" and "scholarship
 14 organization" in section 2002-B of the act of March 10, 1949
 15 (P.L.30, No.14), known as the Public School Code of 1949,
 16 amended June 22, 2018 (P.L.241, No.39), are amended to read:

1 Section 2002-B. Definitions.

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

5 * * *

6 "Educational improvement organization." A nonprofit entity
7 which:

8 (1) is exempt from Federal taxation under section 501(c)
9 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
10 26 U.S.C. § 1 et seq.); and

11 (2) contributes at least [80%] 90% of its annual
12 receipts as grants to a public school, a chartered school as
13 defined in section 1376.1, or a private school approved under
14 section 1376, for innovative educational programs.

15 For purposes of this definition, a nonprofit entity
16 "contributes" its annual cash receipts when it expends or
17 otherwise irrevocably encumbers those funds for expenditure
18 during the then-current fiscal year of the nonprofit entity or
19 during the next succeeding fiscal year of the nonprofit entity.
20 A nonprofit entity shall include a school district foundation,
21 public school foundation, charter school foundation or cyber
22 charter school foundation.

23 * * *

24 "Eligible pre-kindergarten student." A student, including an
25 eligible student with a disability, who is enrolled in a pre-
26 kindergarten program and is either:

27 (1) a member of a household with a maximum annual household
28 income as increased by the applicable income allowance[.]; or

29 (2) received a scholarship or opportunity scholarship in any
30 prior year.

1 "Eligible student." A school-age student, including an
2 eligible student with a disability, who is enrolled in a school
3 and is either:

4 (1) a member of a household with a maximum annual household
5 income as increased by the applicable income allowance[.]; or

6 (2) received a scholarship or opportunity scholarship in any
7 prior year.

8 "Eligible student with a disability." A pre-kindergarten
9 student or a school-age student who meets all of the following:

10 (1) Is enrolled in a special education school or has
11 otherwise been identified, in accordance with 22 Pa. Code Ch.
12 14 (relating to special education services and programs), as
13 a "child with a disability," as defined in 34 CFR § 300.8
14 (relating to child with a disability).

15 (2) Needs special education and related services.

16 (3) Is enrolled in a pre-kindergarten program or in a
17 school.

18 (4) Is either a member of a household with a household
19 income of not more than the maximum annual household income
20 or received a scholarship or opportunity scholarship in any
21 prior year.

22 * * *

23 "Maximum annual household income."

24 (1) Subject to adjustment under paragraphs (2) and (3),
25 the amount of [~~\$85,000~~] \$95,000, plus the applicable income
26 allowance.

27 (2) With respect to an eligible student with a
28 disability, as calculated by multiplying:

29 (i) the applicable amount under paragraph (1); by

30 (ii) the applicable support level factor according

1 to the following table:

2	Support Level	Support Level Factor
3	1	1.50
4	2	2.993

5 (3) Beginning July 1, 2014, the department shall
6 annually adjust the income amounts under paragraphs (1) and
7 (2) to reflect any upward changes in the Consumer Price Index
8 for All Urban Consumers for the Pennsylvania, New Jersey,
9 Delaware and Maryland area in the preceding 12 months and
10 shall immediately submit the adjusted amounts to the
11 Legislative Reference Bureau for publication as a notice in
12 the Pennsylvania Bulletin.

13 * * *

14 "Opportunity scholarship organization." A nonprofit entity
15 which:

16 (1) Is exempt from Federal taxation under section 501(c)
17 (3) of the Internal Revenue Code of 1986 (Public Law 99-514,
18 26 U.S.C. § 1 et seq.); and

19 (2) Contributes at least [80%] 90% of the entity's
20 annual cash receipts to an opportunity scholarship program.

21 For the purposes of this definition, a nonprofit entity
22 contributes the entity's cash receipts to an opportunity
23 scholarship program when the entity expends or otherwise
24 irrevocably encumbers those funds for distribution during the
25 then-current fiscal year of the nonprofit entity or during the
26 next succeeding fiscal year of the nonprofit entity.

27 * * *

28 "Pre-kindergarten scholarship organization." A nonprofit
29 entity which:

30 (1) is exempt from Federal taxation under section 501(c)

1 (3) of the Internal Revenue Code of 1986 or is operated as a
2 separate segregated fund by a scholarship organization that
3 has been qualified under section 2003-B; and

4 (2) contributes at least [80%] 90% of its annual cash
5 receipts to a pre-kindergarten scholarship program by
6 expending or otherwise irrevocably encumbering those funds
7 for distribution during the then-current fiscal year of the
8 organization or during the next succeeding fiscal year of the
9 organization.

10 * * *

11 "Scholarship organization." A nonprofit entity which:

12 (1) is exempt from Federal taxation under section 501(c)
13 (3) of the Internal Revenue Code of 1986; and

14 (2) contributes at least [80%] 90% of its annual cash
15 receipts to a scholarship program.

16 For purposes of this definition, a nonprofit entity
17 "contributes" its annual cash receipts to a scholarship program
18 when it expends or otherwise irrevocably encumbers those funds
19 for distribution during the then-current fiscal year of the
20 nonprofit entity or during the next succeeding fiscal year of
21 the nonprofit entity.

22 * * *

23 Section 2. Section 2006-B(a) of the act, amended June 22,
24 2018 (P.L.241, No.39), is amended to read:

25 Section 2006-B. Limitations.

26 (a) Amount.--

27 (1) The total aggregate amount of all tax credits
28 approved for contributions from business firms to scholarship
29 organizations, educational improvement organizations and pre-
30 kindergarten scholarship organizations shall not exceed

1 [\$160,000,000] \$260,000,000 plus any increased dollar amounts
2 calculated under subparagraph (i) (A) in a fiscal year[.],
3 with each category as follows:

4 (i) No less than [\$110,000,000] \$210,000,000 of the
5 total aggregate amount shall be used to provide tax
6 credits for contributions from business firms to
7 scholarship organizations. The following shall apply:

8 (A) Beginning July 1, 2019, the department shall
9 annually increase the dollar amounts under this
10 subparagraph if more than 90% of the total aggregate
11 amount of tax credits under this subparagraph was
12 used by taxpayers during the prior fiscal year and
13 the General Assembly has not otherwise enacted an
14 increase to the dollar amount under this
15 subparagraph. The amount of the increase required
16 under this clause for the total aggregate amount
17 under this subparagraph shall be 10% and shall be
18 allocated to the program under this subparagraph.

19 (B) The department shall immediately submit the
20 increased dollar amounts under clause (A) to the
21 Legislative Reference Bureau for publication as a
22 notice in the Pennsylvania Bulletin.

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

27 (iii) The total aggregate amount of all tax credits
28 approved for contributions from business firms to pre-
29 kindergarten scholarship organizations shall not exceed
30 \$12,500,000 in a fiscal year.

1 (2) The total aggregate amount of all tax credits
2 approved for contributions from business firms to opportunity
3 scholarship organizations shall not exceed \$50,000,000 in a
4 fiscal year.

5 * * *

6 Section 3. This act shall take effect July 1, 2019, or
7 immediately, whichever is later.