

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1088 Session of  
2021

---

INTRODUCED BY GROVE, TOPPER, PICKETT, HAMM, ROTHMAN, LEWIS,  
ZIMMERMAN, RYAN, STAATS, BERNSTINE, MILLARD, KAUFFMAN,  
WHEELAND, DRISCOLL, ROWE AND GILLEN, APRIL 5, 2021

---

REFERRED TO COMMITTEE ON EDUCATION, APRIL 5, 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," in educational tax credit, further  
6 providing for definitions, for qualification and application  
7 by organizations, for application by business firms, for tax  
8 credits, for limitations and for opportunity scholarships.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. The definitions of "economically disadvantaged  
12 school" and "low-achieving school" in section 2002-B of the act  
13 of March 10, 1949 (P.L.30, No.14), known as the Public School  
14 Code of 1949, are amended to read:

15 Section 2002-B. Definitions.

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

19 \* \* \*

20 "Economically disadvantaged school." Any school within this

1 Commonwealth at which at least [75%] 51% of the students  
2 attending the school in the immediately preceding school year  
3 received a scholarship pursuant to this article.

4 \* \* \*

5 "Low-achieving school." [A public school that ranked in the  
6 lowest 15% of the school's designation] A public elementary or  
7 secondary school of a school district that is ranked 19% or  
8 below the State's designation as an elementary school or a  
9 secondary school based on combined mathematics and reading  
10 scores from the annual assessment administered in the previous  
11 school year and for which the Department of Education has posted  
12 results on the Department of Education's publicly accessible  
13 Internet website. The term does not include a charter school,  
14 cyber charter school or area career and technical school.

15 \* \* \*

16 Section 2. Sections 2003-B(d.3) and (f), 2004-B(a)(2) and  
17 2005-B(b), (c)(2), (d) introductory paragraph, (i), (j)(1) and  
18 (2) of the act are amended to read:

19 Section 2003-B. Qualification and application by organizations.

20 \* \* \*

21 (d.3) [Opportunity scholarship] Scholarship organization for  
22 economically disadvantaged schools.--

23 (1) [In] Effective July 1, 2021, and thereafter, in  
24 addition to the other requirements of this article, [an  
25 opportunity] a scholarship organization that intends to  
26 provide [opportunity] scholarship awards to applicants of  
27 economically disadvantaged schools must demonstrate a history  
28 of serving schools throughout this Commonwealth and the  
29 capacity to distribute [opportunity] scholarships Statewide  
30 to applicants of economically disadvantaged schools.

1 (2) [An opportunity] A scholarship organization must  
2 agree to distribute [opportunity] scholarships to applicants  
3 of economically disadvantaged schools not later than  
4 [December] February 1 of the applicable school year.

5 (3) Notwithstanding any other provision of this article  
6 to the contrary, the department may not for any school year  
7 qualify more than [one opportunity scholarship organization]  
8 three scholarship organizations for the provision of  
9 [opportunity] scholarships to applicants of economically  
10 disadvantaged schools.

11 \* \* \*

12 (f) Publication.--The department shall annually publish a  
13 list of each scholarship organization, pre-kindergarten  
14 scholarship organization, educational improvement organization  
15 and [opportunity] scholarship organization for economically  
16 disadvantaged schools qualified under this section in the  
17 Pennsylvania Bulletin. The list shall also be posted and updated  
18 as necessary on the publicly accessible Internet website of the  
19 department. The list shall separately identify the [opportunity]  
20 scholarship [organization that qualifies] organizations for  
21 economically disadvantaged schools that qualify under subsection  
22 (d.3).

23 Section 2004-B. Application by business firms.

24 (a) Scholarship organization, pre-kindergarten scholarship  
25 organization or [opportunity] scholarship organization for  
26 economically disadvantaged schools.--

27 \* \* \*

28 (2) A business firm that intends to apply to the  
29 department for a tax credit for contributions [to the  
30 opportunity scholarship organization that qualifies under

1 section 2003-B(d.3)] for students attending an economically  
2 disadvantaged school must submit an application separate from  
3 an application for tax credits to a scholarship organization,  
4 pre-kindergarten scholarship organization or [other]  
5 [opportunity] scholarship organization for economically  
6 disadvantaged schools. The contribution shall be made to a  
7 designated scholarship organization for economically  
8 disadvantaged schools and shall be separately accounted for  
9 and distributed by the department.

10 \* \* \*

11 Section 2005-B. Tax credits.

12 \* \* \*

13 (b) Additional amount.--In accordance with section 2006-B,  
14 the Department of Revenue shall grant a tax credit of up to 90%  
15 of the total amount contributed during the taxable year if the  
16 business firm provides a written commitment to provide the  
17 scholarship organization, educational improvement organization  
18 or opportunity scholarship organization with the same amount of  
19 contribution for two consecutive [tax] taxable years. The  
20 business firm must provide the written commitment under this  
21 subsection to the department at the time of application.

22 (c) Pre-kindergarten scholarship organizations.--In  
23 accordance with section 2006-B, the Department of Revenue shall  
24 grant a tax credit against any applicable tax to a business firm  
25 providing proof of a contribution to a pre-kindergarten  
26 scholarship organization in the taxable year in which the  
27 contribution is made in accordance with the following:

28 \* \* \*

29 (2) [The] For each fiscal year, the tax credit shall not  
30 exceed \$200,000 annually per business firm for contributions

1 made to pre-kindergarten scholarship organizations, except as  
2 provided in subsection (i).

3 (d) Combination of tax credits.--In accordance with section  
4 2006-B, a business firm may receive tax credits from the  
5 Department of Revenue in any [tax] fiscal year for any  
6 combination of contributions under subsection (a), (a.1), (b) or  
7 (c). Except as provided in subsection (i), in no case may a  
8 business firm receive tax credits in any [tax] fiscal year in  
9 excess of the following:

10 \* \* \*

11 (i) Temporary increase in maximum tax credits available.--

12 (1) If all tax credits authorized under this article for  
13 contributions to the category of scholarship organizations,  
14 opportunity scholarship organizations or pre-kindergarten  
15 scholarship organizations have not been awarded as of October  
16 1 of any fiscal year, then for applications accepted by the  
17 department from October 1 through November 30 of such fiscal  
18 year, the limitations set forth in subsections (a), (a.1),  
19 (c) and (d) relating to the maximum amount of tax credits a  
20 business firm can receive during a fiscal year for  
21 contributions to each such category of organizations shall  
22 not apply. Under this paragraph, the department may accept  
23 applications under section 2004-B from October 1 through  
24 November 30 as follows:

25 (i) A business firm, including a business firm that  
26 already applied for the maximum tax credits available  
27 pursuant to subsections (a) and (d), may apply under  
28 section 2004-B(a) for up to the total amount of tax  
29 credits remaining available for contributions to  
30 scholarship organizations for the fiscal year as set

1           forth in section 2006-B(a) (1) .

2           (ii) A business firm, including a business firm that  
3           already applied for the maximum tax credits available  
4           pursuant to subsections (a.1) and (d), may apply under  
5           section 2004-B(a) for up to the total amount of tax  
6           credits remaining available for contributions to  
7           opportunity scholarship organizations for the fiscal year  
8           as set forth in section 2006-B(a) (3) .

9           (iii) A business firm, including a business firm  
10          that already applied for the maximum tax credits  
11          available pursuant to subsections (c) and (d), may apply  
12          under section 2004-B(a) for up to the total amount of tax  
13          credits remaining available for contributions to pre-  
14          kindergarten scholarship organizations for the fiscal  
15          year as set forth in section 2006-B(a) (2) .

16          (2) The provisions of subsection (b) shall not apply to  
17          applications for tax credits made under this subsection. Tax  
18          credits awarded under this subsection shall not exceed 75% of  
19          the total amount contributed during the taxable year by a  
20          business firm pursuant to an application filed under this  
21          subsection.

22          (3) Prior to the award of tax credits applied for under  
23          this subsection, the department shall first award tax credits  
24          applied for by a business firm during the period October 1  
25          through November 30 in an amount no greater than the maximum  
26          amount of tax credits for which a business firm is eligible  
27          under subsections (a), (a.1), (c) and (d). The tax credits  
28          shall be awarded on a first-come, first-served basis as set  
29          forth in section 2004-B(c) .

30          (4) After the department has awarded tax credits under

1 paragraph (3), any tax credits remaining available within the  
2 category of scholarship organizations, opportunity  
3 scholarship organizations and pre-kindergarten scholarship  
4 organizations shall be awarded based on the total amount of  
5 tax credits within each category of organization for which  
6 applications are received under this subsection from October  
7 1 through November 30 of the fiscal year as follows:

8 (i) If the total amount of tax credits applied for  
9 by all business firms under this subsection does not  
10 exceed the total amount of tax credits that remained  
11 available for award within a category as of October 1,  
12 less those tax credits awarded under paragraph (3), then  
13 each business firm may be awarded the full amount of tax  
14 credits applied for.

15 (ii) If the total amount of tax credits applied for  
16 by all business firms under this subsection exceeds the  
17 total amount of tax credits that remained available for  
18 award within a category as of October 1, less those tax  
19 credits awarded under paragraph (3), then each business  
20 firm may be awarded an amount of tax credits determined  
21 by multiplying the amount of tax credits applied for by  
22 the business firm by a ratio, the numerator of which is  
23 the total amount of tax credits that remained available  
24 for award within the category as of October 1, less those  
25 awarded as set forth in paragraph (3), and the  
26 denominator of which is the total amount of tax credits  
27 applied for by all business firms under this subsection.

28 (5) If all tax credits authorized under this article for  
29 contributions to the category of scholarship organizations,  
30 opportunity scholarship organizations or pre-kindergarten

1 scholarship organizations have not been awarded as of  
2 November 30 of any fiscal year, then for applications  
3 accepted by the department from December 1 through the end of  
4 the fiscal year, the limitations set forth in subsections  
5 (a), (a.1), (c) and (d) relating to the maximum amount of tax  
6 credits a business firm can receive during a fiscal year for  
7 contributions to each such category of organizations shall  
8 not apply. Under this paragraph, the department may accept  
9 applications under section 2006-B from December 1 through the  
10 end of the fiscal year and shall award tax credits under this  
11 article for contributions to the category of scholarship  
12 organizations, opportunity scholarship organizations or pre-  
13 kindergarten scholarship organizations on a first-come,  
14 first-served basis until all tax credits available for the  
15 fiscal year have been exhausted.

16 [(5)] (6) Notwithstanding a temporary increase in  
17 maximum tax credits available under this subsection, the  
18 limitations set forth in subsections (a), (a.1), (c) and (d)  
19 relating to the maximum amount of tax credits a business firm  
20 can receive during a year for contributions to a category of  
21 scholarship organizations, opportunity scholarship  
22 organizations or pre-kindergarten scholarship organizations  
23 shall be reinstated for all applications accepted by the  
24 department [on or] after [December 1] June 30 of the fiscal  
25 year.

26 (j) Reallocation of tax credits.--

27 (1) Beginning on January 1 of any fiscal year, if any  
28 tax credits authorized under this article for contributions  
29 to any of the categories of scholarship organizations,  
30 opportunity scholarship organizations or pre-kindergarten

1 scholarship organizations remain unawarded, such unawarded  
2 tax credits may be reallocated to any of the categories of  
3 scholarship organizations, opportunity scholarship  
4 organizations or pre-kindergarten scholarship organizations  
5 for which all available tax credits have been awarded. The  
6 department shall, within 10 business days, inform each  
7 business firm on the waiting list maintained by the  
8 department under subsection (h) that tax credits remain  
9 available under another category for which the business firm  
10 has not yet applied. If a business firm notified under this  
11 paragraph elects, the department shall reallocate available  
12 tax credits for award to the business firm in the business  
13 firm's preferred tax credit category, notwithstanding the  
14 limitations contained in section 2006-B(a). [The amount of  
15 tax credits to be awarded to a business firm under this  
16 paragraph shall not exceed the amount of tax credits  
17 available for reallocation or the maximum amount of tax  
18 credits for which a business firm is eligible under  
19 subsections (a), (a.1), (c) and (d).] Each business firm  
20 shall have 10 business days from the date of the department's  
21 notice to elect a reallocation of tax credits under this  
22 paragraph. The department shall award tax credits on a first-  
23 come, first-served basis.

24 (2) After the department has awarded tax credits under  
25 paragraph (1), the department shall accept new applications  
26 for reallocation of tax credits from any of the categories of  
27 scholarship organizations, opportunity scholarship  
28 organizations or pre-kindergarten scholarship organizations  
29 for which tax credits remain available to the applicant's  
30 preferred category of scholarship organizations, opportunity

1 scholarship organizations or pre-kindergarten scholarship  
2 organizations for which all available tax credits have been  
3 awarded, notwithstanding any limitations contained in section  
4 2006-B(a) [. The amount of tax credits to be awarded to a  
5 business firm under this paragraph shall not exceed the  
6 amount of tax credits available for reallocation or the  
7 maximum amount of tax credits for which a business firm is  
8 eligible under] or the limitations in subsections (a), (a.1),  
9 (c) and (d). The department shall award tax credits on a  
10 first-come, first-served basis.

11 \* \* \*

12 Section 3. Section 2006-B(a) and (d.1) of the act, amended  
13 or added November 25, 2020 (P.L.1294, No.136), are amended and  
14 the section is amended by adding a subsection to read:

15 Section 2006-B. Limitations.

16 (a) Amount.--

17 (1) The total aggregate amount of all tax credits  
18 approved for contributions from business firms to scholarship  
19 organizations, educational improvement organizations and pre-  
20 kindergarten scholarship organizations shall not exceed  
21 [\$185,000,000] \$339,020,000 plus any increased dollar amounts  
22 calculated under subparagraph (i) (B), (ii) (B) and (iii) (B) in  
23 a fiscal year[.] with each category as follows, plus an  
24 amount sufficient to meet the objectives of section (d.1):

25 (i) (A) No less than [\$135,000,000] \$235,000,000 of  
26 the total aggregate amount plus an amount equal to  
27 meet the obligations of section (d.1) shall be used  
28 to provide tax credits for contributions from  
29 business firms to scholarship organizations.

30 (B) Beginning July 1, 2022, and each July 1

1 thereafter, the department shall automatically  
2 increase the tax credit amount by 10% if the amount  
3 used in the prior fiscal year is equal to or greater  
4 than 90% of the tax credit amount approved in the  
5 prior fiscal year or the amount published by the  
6 Legislative Reference Bureau. The department shall  
7 immediately transmit notice of the increased dollar  
8 amounts to the Legislative Reference Bureau for  
9 publication in the Pennsylvania Bulletin.

10 (ii) (A) No less than [\$37,500,000] \$59,500,000 of  
11 the total aggregate amount shall be used to provide  
12 tax credits for contributions from business firms to  
13 educational improvement organizations.

14 (B) Beginning July 1, 2022, and each July 1  
15 thereafter, the department shall automatically  
16 increase the tax credit amount by 10% if the amount  
17 used in the prior fiscal year is equal to or greater  
18 than 90% of the tax credit amount approved in the  
19 prior fiscal year or the amount published by the  
20 Legislative Reference Bureau. The department shall  
21 immediately transmit notice of the increased dollar  
22 amounts to the Legislative Reference Bureau for  
23 publication in the Pennsylvania Bulletin.

24 (iii) (A) The total aggregate amount of all tax  
25 credits approved for contributions from business  
26 firms to pre-kindergarten scholarship organizations  
27 shall not exceed [\$12,500,000] \$19,520,000 in a  
28 fiscal year.

29 (B) Beginning July 1, 2022, and each July 1  
30 thereafter, the department shall automatically

1 increase the tax credit amount by 10% if the amount  
2 used in the prior fiscal year is equal to or greater  
3 than 90% of the tax credit amount approved in the  
4 prior fiscal year or the amount published by the  
5 Legislative Reference Bureau. The department shall  
6 immediately transmit notice of the increased dollar  
7 amounts to the Legislative Reference Bureau for  
8 publication in the Pennsylvania Bulletin.

9 (iv) No less than \$25,000,000 of the total aggregate  
10 amount shall be used to provide tax credits for  
11 contributions from business firms to increase the  
12 scholarship amount to students attending and economically  
13 disadvantaged school by up to \$2,500 for students  
14 attending grades kindergarten through eight and \$5,000  
15 for students attending grades nine through 12 more than  
16 the amount provided during the immediately preceding  
17 school year.

18 (2) The total aggregate amount of all tax credits  
19 approved for contributions from business firms to opportunity  
20 scholarship organizations shall not exceed [\$55,000,000 in a  
21 fiscal year and no less than \$5,000,000 of the total  
22 aggregate amount shall be used to provide tax credits for  
23 contributions from business firms to increase the scholarship  
24 amount to students attending an economically disadvantaged  
25 school by up to \$1,000 more than the amount provided during  
26 the immediately preceding school year.] \$83,500,000.

27 \* \* \*

28 (d.1) Economically disadvantaged school.--For a student  
29 attending an economically disadvantaged school, to the extent  
30 that the total amount of scholarships, pre-kindergarten

1 scholarships and opportunity scholarships will not exceed the  
2 standard tuition to a nontuition scholarship student.

3 [(d.1)] (d.2) Pandemic relief.--

4 (1) A tax credit awarded to a business firm during the  
5 2020-2021 or 2021-2022 fiscal year that cannot be used by the  
6 business firm during the fiscal year in which awarded may be  
7 carried forward and used during the two taxable years  
8 following the taxable year in which the tax credit was  
9 awarded.

10 (2) Tax credits that are carried forward under this  
11 subsection shall not diminish the total amount of tax credits  
12 that may otherwise be awarded to a business firm under  
13 section 2005-B or that may be awarded to all business firms  
14 in the aggregate under subsection (a).

15 \* \* \*

16 Section 4. Section 2009-B(d), (e) and (f) of the act are  
17 amended to read:

18 Section 2009-B. Opportunity scholarships.

19 \* \* \*

20 (d) Funding.--The aggregate amount of opportunity  
21 scholarships shall not exceed the aggregate amount of  
22 contributions made by business firms to [the opportunity]  
23 scholarship [organization] organizations for economically  
24 disadvantaged schools.

25 (e) Amount.--

26 (1) [(i) Except as otherwise provided in subparagraph  
27 (ii), the] The maximum amount of an opportunity  
28 scholarship awarded to an applicant without a disability  
29 shall be \$8,500.

30 [(ii) For a student attending an economically

1           disadvantaged school, the maximum amount of an  
2           opportunity scholarship awarded to an applicant without a  
3           disability shall be \$9,500.]

4           (2) [(i) Except as otherwise provided in subparagraph  
5           (ii), the] The maximum amount of an opportunity  
6           scholarship awarded to an applicant with a disability  
7           shall be \$15,000.

8                     [(ii) For a student attending an economically  
9           disadvantaged school, the maximum amount of an  
10          opportunity scholarship awarded to an applicant with a  
11          disability shall be \$16,000.]

12          (3) In no case shall the combined amount of the  
13          opportunity scholarship awarded to a recipient and any  
14          additional financial assistance provided to the recipient  
15          exceed the tuition rate and school-related fees for the  
16          participating public school or participating nonpublic school  
17          that the recipient will attend.

18          (f) Designation, reports and notices.--For purposes of  
19          section 2006-B(d.1):

20                 (1) Each school that desires to be designated as an  
21                 economically disadvantaged school for a school year shall  
22                 report the following information to the department by the  
23                 January 1 preceding the applicable school year:

24                     (i) The total number of students who attend the  
25                     school as of the date of the report and are the  
26                     recipients of a scholarship under this article.

27                     (ii) The total number of students attending the  
28                     school as of the date of the report.

29                     (iii) For start-up fiscal year 2021-2022, the  
30                     information in the report required under this paragraph

1           shall be based upon the 2021-2022 school year.

2           (2) The information required under paragraph (1) shall  
3 be submitted on a form provided by the department. No later  
4 than the October 15 preceding each school year, the  
5 department shall annually distribute or make available  
6 electronically to each school in this Commonwealth the forms  
7 on which the reports are required to be made.

8           (3) No later than March 1 after a school has submitted  
9 to the department the information required under paragraph  
10 (1), the department shall notify the school whether the  
11 school meets the requirements of, and will be designated as,  
12 an economically disadvantaged school for the applicable  
13 school year.

14           (4) The department shall annually transmit notice of a  
15 list of each school designated as an economically  
16 disadvantaged school under this section to the Legislative  
17 Reference Bureau for publication in the Pennsylvania  
18 Bulletin. The list shall be posted and updated as necessary  
19 on the department's publicly accessible Internet website.

20           (5) (i) Each school that has been designated by the  
21 department as an economically disadvantaged school for an  
22 applicable school year shall notify the department by no  
23 later than October 15 of the applicable school year of  
24 the following information for each recipient of a  
25 scholarship registered to attend the school for the  
26 applicable school year:

27                   (A) The recipient's name and address.

28                   (B) The grade of the recipient for the school  
29 year with respect to which the scholarship and  
30 tuition grant shall be received.

1 (C) The type and amount of [scholarship]  
2 scholarships under this article entitled Education  
3 Tax Credits received by the recipient.

4 (D) The names and address of the recipient's  
5 parents or guardians.

6 (E) The amount tuition changed.

7 (ii) The information submitted in this paragraph  
8 shall be provided to the [opportunity] scholarship  
9 [organization] organizations for economically  
10 disadvantaged schools[.] which shall distribute the funds  
11 in accordance with section 2006-B(d.1).

12 (iii) Information submitted by a school designated  
13 by the department as an economically disadvantaged school  
14 shall remain confidential and shall not be subject to the  
15 act of February 14, 2008 (P.L.6, No.3), known as the  
16 Right-to-Know Law. The information can be used for  
17 administration of the program.

18 Section 5. This act shall take effect in 60 days.