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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1778 Session of  
2021

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INTRODUCED BY KINSEY, ROZZI, ROTHMAN, HILL-EVANS AND SANCHEZ,  
AUGUST 11, 2021

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REFERRED TO COMMITTEE ON EDUCATION, AUGUST 11, 2021

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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," providing for an educational  
6 improvement initiative tax credit.

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

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known  
10 as the Public School Code of 1949, is amended by adding an  
11 article to read:

12 ARTICLE XX-K

13 EDUCATIONAL IMPROVEMENT INITIATIVE TAX CREDIT

14 Section 2001-K. Scope of article.

15 This article establishes the educational improvement  
16 initiative tax credit.

17 Section 2002-K. Definitions.

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

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

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

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

20 "Department." The Department of Community and Economic  
21 Development of the Commonwealth.

22 "Educational improvement initiative." An initiative  
23 implemented by a school district under section 2010-K.

24 "Educational improvement organization." As follows:

25 (1) A nonprofit entity which:

26 (i) is exempt from Federal taxation under section  
27 501(c)(3) of the Internal Revenue Code of 1986 (Public  
28 Law 99-514, 26 U.S.C. § 501(c)(3)); and

29 (ii) contributes at least 80% of its annual receipts  
30 as grants to a public school for educational improvement

1 initiatives.

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

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

17 "Pass-through entity." A partnership as defined in section  
18 301(n.0) of the Tax Reform Code, a single-member limited  
19 liability company treated as a disregarded entity for Federal  
20 income tax purposes or a Pennsylvania S corporation as defined  
21 in section 301(n.1) of the Tax Reform Code.

22 "Program." The Educational Improvement Initiative Tax Credit  
23 Program established under this article.

24 "Tax credit." The educational improvement initiative tax  
25 credit provided under this article.

26 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),  
27 known as the Tax Reform Code of 1971.

28 Section 2003-K. Qualification and application.

29 (a) Establishment.--The Educational Improvement Initiative  
30 Tax Credit Program is established. The program shall provide tax

1 credits to entities that provide contributions to educational  
2 improvement organizations. Contributions to the educational  
3 improvement organizations shall be used to provide grants to  
4 school districts with low-achieving schools to improve students'  
5 academic performance through educational improvement initiatives  
6 under section 2010-K.

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

13 (c) Application.--An application submitted by an educational  
14 improvement organization must certify to the department that the  
15 organization is eligible to participate in the program. The  
16 application must include a description of the educational  
17 improvement initiatives under section 2010-K that are being  
18 funded by the educational improvement organization. The  
19 department shall prescribe the form of the application.

20 (d) Annual certification of eligibility.--By August 15,  
21 2021, and by February 15, 2022, and each February 15 thereafter,  
22 an educational improvement organization must certify to the  
23 department that the organization is eligible to participate in  
24 the program.

25 (e) Report.--

26 (1) An educational improvement organization must agree  
27 to report the following information on a form provided by the  
28 department by September 1, 2022, and each September 1  
29 thereafter:

30 (i) The names of the school districts and the low-

1 achieving schools that received grants and the total  
2 amount of the grants made to school districts during the  
3 immediately preceding school year.

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

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

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

20 (2) The information required under paragraph (1) shall  
21 be submitted on a form provided by the department. No later  
22 than September 1, 2021, and May 1 of each year thereafter,  
23 the department shall annually distribute the sample forms,  
24 together with the forms on which the reports are required to  
25 be made, to each listed educational improvement organization.

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

29 (f) Notification.--The department shall notify the  
30 educational improvement organization that the organization meets

1 the requirements of this article for that fiscal year no later  
2 than 60 days after the organization has submitted the  
3 information required under this section.

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

9 Section 2004-K. Tax credit application.

10 (a) Educational improvement organization.--A business firm  
11 shall apply to the department for a tax credit under section  
12 2005-K. A business firm shall receive a tax credit if the  
13 educational improvement organization that receives the  
14 contribution appears on the list published under section 2003-  
15 K(g).

16 (b) Availability of tax credits.--Tax credits shall be made  
17 available by the department on a first-come, first-served basis  
18 within the limitation established under section 2006-K(a).

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

23 Section 2005-K. Tax credit.

24 (a) Educational improvement organizations.--

25 (1) In accordance with section 2006-K(a), the Department  
26 of Revenue shall grant a tax credit against any tax due under  
27 Article XVI of the act of May 17, 1921 (P.L.682, No.284),  
28 known as The Insurance Company Law of 1921, or under Article  
29 III, IV, VI, VII, VIII, IX or XV of the Tax Reform Code to a  
30 business firm providing proof of a contribution to an

1 educational improvement organization in the taxable year in  
2 which the contribution is made, which shall not exceed 75% of  
3 the total amount contributed during the taxable year by the  
4 business firm.

5 (2) For the fiscal year 2021-2022 and each fiscal year  
6 thereafter, the tax credit shall not exceed \$750,000 annually  
7 per business firm for contributions made to educational  
8 improvement organizations.

9 (b) Additional amount.--

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

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

19 (c) Combination of tax credits.--

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

23 (2) In no case may a business firm receive tax credits  
24 in any tax year in excess of \$750,000 for contributions under  
25 subsections (a) and (b) made during fiscal year 2021-2022 or  
26 any fiscal year thereafter.

27 (d) Pass-through entity.--

28 (1) If a pass-through entity does not intend to use all  
29 approved tax credits under this section, it may elect in  
30 writing to transfer all or a portion of the credit to

1 shareholders, members or partners in proportion to the share  
2 of the entity's distributive income to which the shareholder,  
3 member or partner is entitled for use in the taxable year in  
4 which the contribution is made or in the taxable year  
5 immediately following the year in which the contribution is  
6 made. The election shall designate the year in which the  
7 transferred credits are to be used and shall be made  
8 according to procedures established by the Department of  
9 Revenue.

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

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

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

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

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

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

29 Section 2006-K. Tax credit limitations.

30 (a) Amount.--The total aggregate amount of all tax credits



1 approved shall not exceed \$50,000,000 in a fiscal year.

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

5 (c) Tax liability.--

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

9 (2) In the case of a credit granted to a pass-through  
10 entity which elects to transfer the credit according to  
11 section 2005-K(d), a tax credit granted for any one taxable  
12 year and transferred to a shareholder, member or partner may  
13 not exceed the tax liability of the shareholder, member or  
14 partner.

15 (d) Use.--A tax credit not used by the applicant in the  
16 taxable year the contribution was made or in the year designated  
17 by the shareholder, member or partner to whom the credit was  
18 transferred under section 2005-K(d) may not be carried forward  
19 or carried back and is not refundable or transferable.

20 Section 2007-K. Tax credit lists.

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

25 Section 2008-K. Department notice.

26 By August 15, 2021, and by February 1 of each year  
27 thereafter, the department shall provide all educational  
28 improvement organizations with a list of the low-achieving  
29 schools located within each school district.

30 Section 2009-K. List of low-achieving schools.

1 (a) List of low-achieving schools.--By September 1, 2021,  
2 and by February 1 of each year thereafter, the Department of  
3 Education shall publish on its publicly accessible Internet  
4 website and in the Pennsylvania Bulletin a list of the low-  
5 achieving schools for the following school year.

6 (b) Notice.--By August 1, 2021, and by February 1 of each  
7 year thereafter, the Department of Education shall notify every  
8 school district identified as having at least one low-achieving  
9 school of its designation and shall furnish the school district  
10 with a list of the low-achieving schools located within the  
11 school district.

12 Section 2010-K. Educational improvement initiatives.

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

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

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

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

29 (4) Other programs or activities, as approved by the  
30 Department of Education, which the board of school directors

1 of a school district determines are essential to improving  
2 academic performance of students in a low-achieving school.  
3 Section 2. This act shall take effect immediately.